

U.S. Department of State  
Construction Services  
SAQMMA14R  
Sections B through M

**SECTION B - SUPPLIES OR SERVICES AND PRICES / COSTS**

**B.1 SERVICES**

The Contractor shall provide all materials, equipment, labor, and construction services for the construction of a Secondary Inspection Site in Rio Claro District Golfito Canton, Puntarenas, Costa Rica accordance with the scope-of-work, provided in Section C, and all other documents incorporated into this contract. The contractor is to perform the services in accordance with the terms and conditions of this solicitation, and in strict conformance with the contract clauses and any special conditions contained herein.

**B.2 TYPE OF CONTRACT**

This is a firm fixed-price contract payable entirely in the currency indicated by the Contractor in Sub-Section B.3. No additional sums will be payable on account of any escalation in the cost of materials, equipment or labor, or because of the Contractor's failure to properly estimate or accurately predict the cost or difficulty of achieving the results required by this contract. Nor will the contract price be adjusted on account of fluctuations in the currency exchange rates. Changes in the contract price or time to complete will be made only due to changes made by the Government in the work to be performed, or by delays caused by the Government (see Sub-Section F.12, Excusable Delays) as determined and approved by the Contracting Officer.

**B.3 CONTRACT PRICE**

The Contractor shall complete all work, including furnishing all labor, material, equipment and services, unless otherwise specified herein, required under this contract for the firm fixed-price indicated below and within the time specified herein. This price shall include all labor, materials, and profit. Any costs not priced will be considered to be included in the overhead and other indirect costs.

If applicable, the contractor shall also include separate pricing information for Value Added Tax. This item shall be separate reimbursable item (See Section B.4).

If applicable, the Contractor shall also include separate pricing information for insurance required by FAR 52.228-4, Workers' Compensation and War-Hazard Insurance. This item shall be part of the firm fixed price (See Section B.5).

**B.3.1. BASIC REQUIREMENT - Offerors shall insert the prices of their offer as follows:**

<b><u>CLIN</u></b>	<b><u>Description</u></b>	<b><u>Price</u></b>
001.1	Construction services, including all labor, materials, equipment, overhead, other indirect costs, costs for insurance (other than DBA), Letter of Credits, and profit: (See Section C.1.3.1)	\$
	Defense Base Act Insurance (DBA), if required. (See Section K.5)	N/A
	TOTAL NET FIRM FIXED-PRICE, BASIC REQUIREMENT	
	Option Item-Freezing system	
	Option Item #2. Generator and Transformer	

**B.3.2 STATE CURRENCY:** \_\_\_\_\_

**B.4 VALUE ADDED TAX (VAT)**

If applicable, the contractor shall be responsible paying to the appropriate authority, the applicable rate of Value Added tax. Offerors shall identify Value Added Tax (VAT) as a separate line item in Section B. The VAT shall also be reflected as a separate cost item on all invoices submitted under the resulting contract. The Contractor will be reimbursed for VAT only to the extent contractor provides documentary proof that VAT has been paid to the host government. Any refund of VAT to the contractor shall be paid over to the Government to the extent the Government reimbursed the contractor for the VAT payment.

**B.5 DEFENSE BASE ACT (DBA) INSURANCE**

DBA insurance may be required in accordance with FAR clauses 52.228-3 and 52.228-4 contained in section I. DOSAR Clause 652.228-70 contained in section K assists the contractor in determining the need for DBA insurance or other coverage. DBA Insurance may be obtained from any U.S. Department of Labor authorized DBA insurance broker. DBA insurance cost will be evaluated as part of the total evaluated fixed price and included in the fixed price of the contract.

**B.6 COST OF MATERIALS / EQUIPMENT**

The cost of any materials or equipment required in conjunction with the services rendered herein shall be included in the proposed firm fixed-price.

## **SECTION C - DESCRIPTION/SPECIFICATIONS/STATEMENT OF WORK**

### **C.1 PROJECT NAME/LOCATION**

#### **GENERAL DESCRIPTION**

The Embassy of the United States of America in San Jose is going to develop the construction of one Secondary Inspection Site for the Police of Costa Rica. The project will be implemented in the Southern border with Panama, in the place known as **KM35** in Rio Claro District, Golfito Canton, Puntarenas Province, Costa Rica. The project includes the following works:

- Preliminary work that includes the nationalization of the technical drawings, topographic survey, and construction of temporal facilities for materials and personnel for construction.
- Construction of one building of 375 m2 constructed with a metallic structure and one elevated concrete platform. This building includes three areas for the inspection of containers and one for vehicles.
- Construction of one concrete building of 89 m2 which contains four kennels, two preventive cells, two bathrooms and one area to place an electric generator.
- Design and construction of the electric system for the facilities.
- Connection to the water system.
- Connection of a sewer system.
- Construction of Fire Protection System.
- Construction of 1700 m2 of vehicles platform, sidewalks and patios.
- Construction of 150 m of fence.

Also the project will include the following optional items:

- Construction of one Freezing Room.
- Provision and installation of a 30 KVA generator.
- Design and build a new electric connection supply including a new transformer.

## **SECTION D - PACKAGING AND MARKING**

### **D.1 DUTY-FREE CLEARANCE**

In accordance with the procedure described in Section H.16, Imported materials, equipment and personnel, all shipping containers or otherwise, shall be labeled as follows:

ATTN: Customs & Shipping (CONTRACT # SAQMMA14C-... )

to be completed by the contractor.

Items shall be marked as “**Diplomatic Cargo**”.

Material Shipping/Customs Clearance

Materials shall be shipped to:

US Embassy San Jose,

Costa Rica. Care of GSO.

**D.2 DOSAR 652.229-70 EXCISE TAX EXEMPTION STATEMENT FOR CONTRACTORS WITHIN THE UNITED STATES (JUL 1988)**

This is to certify that the item(s) covered by this contract is/are for export solely for the use of the U.S. Foreign Service Post identified in the contract schedule.

The Contractor shall use a photocopy of this contract as evidence of intent to export. Final proof of exportation may be obtained from the agent handling the shipment. Such proof shall be accepted in lieu of payment of excise tax.

**SECTION E - INSPECTION AND ACCEPTANCE**

**E.1 FAR 52.246-12 - INSPECTION OF CONSTRUCTION (AUG 1996)**

- (a) Definition: "Work" includes, but is not limited to, materials, workmanship, and manufacture and fabrication of components.
- (b) The Contractor shall maintain an adequate inspection system and perform such inspections as will ensure that the work performed under the contract conforms to contract requirements. The Contractor shall maintain complete inspection records and make them available to the Government. All work shall be conducted under the general direction of the Contracting Officer and is subject to Government inspection and test at all places and at all reasonable times before acceptance to ensure strict compliance with the terms of the contract.
- (c) Government inspections and tests are for the sole benefit of the Government and do not
  - (1) Relieve the Contractor of responsibility for providing adequate quality control measures;
  - (2) Relieve the Contractor of responsibility for damage to or loss of the material before acceptance.
  - (3) Constitute or imply acceptance; or
  - (4) Affect the continuing rights of the Government after acceptance of the completed work under paragraph (i) of this section.
- (d) The presence or absence of a Government inspector does not relieve the Contractor from any contract requirement, nor is the inspector authorized to change any term or condition of the specification without the Contracting Officer's written authorization.
- (e) The Contractor shall promptly furnish, at no increase in contract price, all facilities, labor, and material reasonably needed for performing such safe and convenient inspections and tests as may be required by the Contracting Officer. The Government may charge to the Contractor any additional cost of inspection or test when work is not ready at the time specified by the Contractor for inspection or test, or when prior rejection makes re-inspection or retest necessary. The Government shall perform all inspections and tests in a manner that will not unnecessarily delay the work. Special, full size, and performance tests shall be performed as described in the contract.
- (f) The Contractor shall, without charge, replace or correct work found by the Government not to conform to contract requirements, unless in the public interest the Government consents to accept the work with an appropriate adjustment in contract price. The Contractor shall promptly segregate and remove rejected material from the premises.
- (g) If the Contractor does not promptly replace or correct rejected work, the Government may --
  - (1) By contract or otherwise, replace or correct the work and charge the cost to the Contractor; or
  - (2) Terminate for default the Contractor's right to proceed.
- (h) If, before acceptance of the entire work, the Government decides to examine already completed work by removing it or tearing it out, the Contractor, on request, shall promptly furnish all necessary facilities, labor, and material. If the work is found to be defective or non-conforming in any material respect due to the fault of the Contractor or its subcontractors, the Contractor shall defray the expenses of the examination and of satisfactory reconstruction. However, if the work is found to meet contract requirements, the Contracting Officer shall make an equitable adjustment for the additional services

involved in the examination and reconstruction, including, if completion of the work was thereby delayed, an extension of time.

(i) Unless otherwise specified in the contract, the Government shall accept, as promptly as practicable after completion and inspection, all work required by the contract or that portion of the work the Contracting Officer determines can be accepted separately. Acceptance shall be final and conclusive except for latent defects, fraud, gross mistakes amounting to fraud, or the Government's rights under any warranty or guarantee.

## **E.2 SUBSTANTIAL COMPLETION**

Definitions.

E.2.1. “Substantial Completion” means the stage in the progress of the work as determined and certified by the Contracting Officer or Contracting Officer’s Representative in writing to the Contractor, on which the work or a portion thereof designated by the Government is sufficiently complete and satisfactory, in accordance with the requirements of the Contract Documents, that it may be occupied or utilized for the purpose for which it is intended, and only minor items such as touch-up, adjustments, and minor replacements or installations remain to be completed or corrected which (1) do not interfere with the intended occupancy or utilization of the work, and (2) can be completed or corrected within the time period required for final completion.

E.2.2 “Date Of Substantial Completion.” means the date determined by the Contracting Officer or Contracting Officer’s Representative of which substantial completion of the work has been achieved.

### **E.2.3 Request for Substantial Completion Inspection**

The Contractor shall give the COR at least 15 days advance written notice of the date the work will be substantially completed and ready for inspection and tests. The inspection and tests will be started not later than the date specified in the aforesaid notice unless the COR determines that the work is not ready for inspection and so informs the Contractor.

### **E.2.4 Use and Possession upon Substantial Completion**

The Government shall have the right to take possession of and use the work upon substantial completion thereof. Upon notice by the Contractor that the work is substantially complete and verification thereof on the basis of an inspection by the COR and any required tests, the COR shall furnish the Contractor a Certificate of Substantial Completion, accompanied by the Schedule of Defects enumerating items of work remaining to be performed, completed or corrected before final completion and acceptance. However, failure of the COR to list any item of work shall not relieve the Contractor of responsibility for complying with the terms of the contract. The Government's possession or use upon substantial completion shall not be deemed an acceptance of any work under the contract.

## **E.3 USE OF EQUIPMENT BY THE GOVERNMENT**

E.3.1 Right to use. The Government may take over and operate, with Government employees, such equipment as is necessary for heating or cooling such areas of the building as require the service, and other equipment such as elevators, electrical, plumbing and mechanical systems, as soon as the installation is sufficiently complete to permit operation.

E.3.2 Notice. The COR will advise the Contractor in writing, prior to the use of the equipment, which items of equipment will be operated, and the date and time such operation shall begin.

E.3.3 Effect on warranties. Government operation of equipment will not relieve the Contractor of any warranty or correction obligations elsewhere provided for in this contract. The applicable correction period, elsewhere provided for in this contract, for each piece of equipment shall be in accordance with the applicable provisions of this contract.

#### **E.4 QUALITY ASSURANCE AND QUALITY CONTROL**

E.4.1 Introduction. A principal factor of performance on a project is the Contractor's control of the quality of workmanship. The Contractor shall establish and maintain a project-specific Quality Management Program (QMP) which defines and implements a quality system. The quality system is a documented organizational process which describes responsibilities, procedures, and resources for providing quality control and quality assurance on a project. Effectiveness of the QMP is achieved through adequate planning, forceful direction, and checking in the sense of measurement and evaluation. The QMP applies to the control of quality throughout all areas of contract performance.

E.4.2 Quality Management Program the Contractor's QMP shall be Facility Management Office (COR)-approved to provide employees, consultants, and/or joint-venture partners with established, uniform procedures for production of project data and documents throughout the construction process. Principal functions of the QMP are the following:

E.4.3 Quality Control (QC): Operational techniques and activities that are used to fulfill requirements for construction quality.

E.4.4 Quality Assurance (QA): Documentation of planned and systematic actions required to provide confidence that construction services provided are based on project requirements and satisfy stated requirements for quality.

E.4.5 Audits After award of the Contract, the Government may perform audits of the Contractor's QMP to periodically assess conformance with the QMP in accordance with the provisions of Section E of the contract. Disapproval of the program, or major portions, may be cause for a delay in progress of the project's development or, in some cases, withholding acceptance of the Contractor's performed services. The Government may examine the Contractor's existing quality system prior to award of this contract as part of a pre-contract assessment, in order to determine the ability of the Contractor to satisfy the "quality" requirements of this contract.

E.4.6 Agreement on Quality Assurance The Contractor shall develop a clear understanding with all his consultants on quality assurance matters for which the contractor are responsible, and the quality assurance program of the contractor shall be integrated with that of the Contractor of record.

E.4.7 QMP Submittal Requirements The QMP shall be structured and developed to include the following minimum requirements:

E.4.8 Organizational Structure The Contractor shall define and submit a QMP organizational structure within 15 days of contract award, including charts and a description of responsibilities of key persons who will perform the services. Persons responsible for interface with the Government, including the security manager and QMP Manager must be identified. A separate list should also include all team members, including consultants with telephone and email addresses.

E.4.9 Quality Policy The Contractor shall have a stated corporate quality policy. This policy shall

the Contractor to ensure that the corporate quality policy is understood, implemented, and maintained by all employees of the Contractor and the Contractor's subcontractors.

E.4.10 Building Standards Construction must comply with the building codes and standards as detailed within the project drawings and specifications in addition to conforming to each volume, as applicable, of the 2009 International Code Council body of codes. Inconsistencies among codes and standards shall be brought in writing to the attention of the COR. The COR will resolve any inconsistencies.

E.4.16 Corrective Action The QMP shall clearly define responsibilities and procedures for corrective action in the event that deficiencies in D/B services or resulting deliverables are found to exist.

E.4.17 QMP Reporting The Contractor shall prepare a sample Quality Assurance (QA) Report to be submitted as part of the solicitation package this sample report shall be updated and submitted with 15 calendar days from contract award. This report shall identify the QMP procedures used to review drawings and data for these submissions identifying steps taken to coordinate all drawings and documents provided by the Government and shall show contractors coordination with the subcontractors. The report shall include: 1) QC Status of the project include evidence of QC effort by inclusion of notes, comments, dialogue and discussion among and between disciplines of QC input and adjudication; 2) Significant Program Problems and their solutions/corrective actions; 3) Organization and Key Personnel Changes to be submitted within 5 working days in advance of the proposed change; 4) Certification of completion of QMP procedures and submission completeness; 5) Construction Documents Compliance Letter for the construction works.

## **E.5 FINAL COMPLETION AND ACCEPTANCE**

### **E.5.1 Definitions**

(a) "Final completion and acceptance" means the stage in the progress of the work as determined by the COR and confirmed in writing to the Contractor, on which all work required under the contract has been completed in a satisfactory manner in accordance with the requirements thereof, subject to the discovery of defects after final completion, and except for items specifically excluded in the notice of final acceptance.

(b) The "date of final completion and acceptance" means the date determined by the COR as of which final completion of the work has been achieved, as indicated by written notice to the Contractor.

### **E.5.2 Request for Final Inspection and Tests**

The Contractor shall give the COR at least 15 days advance written notice of the date the work will be fully completed and ready for final inspection and tests. Final inspection and tests will be started not later than the date specified in the aforesaid notice unless the COR determines that the work is not ready for final inspection and so informs the Contractor.

### **E.5.3 Final Acceptance**

Upon (a) satisfactory completion of all required tests, (b) verification by the COR on the basis of a final inspection that all items listed in the Schedule of Defects have been completed or corrected and that the work is finally complete, subject to the discovery of defects after final completion, and (c) submittal by the Contractor of all documents including contractor close-out documents, and other items required upon completion of the work, including a final request for payment, and if the COR is satisfied that the work under the contract is complete and the contract has been fully performed, with

final acceptance and process final payment as required by the contract.

## **SECTION F - DELIVERIES OR PERFORMANCE**

### **F.1 FAR 52.211-10 COMMENCEMENT, PROSECUTION, AND COMPLETION OF WORK (APR 1984)**

For the basic requirement, the Contractor shall be required to: (a) commence work under this contract on/or about July 15, 2014, (b) prosecute the work diligently; and (c) complete the entire work ready for use not later than **240** calendar days after the contractor receives the Notice to Proceed. The time stated for completion shall include final cleanup of the premises and completion of punch-list items.

#### **F.1.1 Period of Performance**

The period of performance shall become effective on the date of the Notice to Proceed (NTP) and the overall total performance period is 240 calendar days.

### **F.2 CONTRACTOR DELAYS**

The project schedule is a key parameter of this project, and completion of the construction-periods are key to the project as a whole.

#### **F.2.1 FAR 52.211-12 – LIQUIDATED DAMAGES - CONSTRUCTION (SEP 2000)**

(a) If the Contractor fails to complete the work within the time specified in the contract at F.1.2. above, the Contractor shall pay liquidated damages to the Government in the amount of US\$450.00 for each calendar day of delay until the work is completed or accepted.

(b) If the Government terminates the Contractor's right to proceed, liquidated damages will continue to accrue until the work is completed. The liquidated damages are in addition to excess costs of repurchase under the Termination clause.

### **F.3 CONTRACTOR'S SUBMISSION OF CONSTRUCTION SCHEDULES**

(a) The time for submission of the schedules referenced in Section I, 52.236-15, "Schedules for Construction Contracts", paragraph (a), is hereby modified to reflect that the submission shall be within 15 calendar days after contract award.

(b) These schedules shall include the time by which shop drawings, product data, samples and other submittals required by the contract shall be submitted for approval.

(c) The Contractor shall revise such schedules (1) to account for the actual progress of the work, (2) to reflect approved adjustments in the performance schedule, and (3) as required by the COR to achieve coordination with work by the Government and any separate contractors employed by the Government. The Contractor shall submit a schedule, which sequences work to minimize disruption at the job-site.

(d) All deliverables shall be in the English language, unless otherwise provided hereunder, and any

extension of time shall be allowed for delay by the Government in approving such deliverables if the Contractor has failed to act promptly and responsively in submitting its deliverables. Each deliverable shall be identified as required by the contract.

#### F.4 DELIVERABLES

Deliverable items called out in this contract shall be delivered in accordance with the following delivery schedule:

CO = Contracting Officer  
COR = Contracting Officer's Representative  
FNTF = Full Notice to Proceed

<b>Description</b>	<b>Qty</b>	<b>Delivery Date</b>	<b>Deliver to:</b>
H.1.1 Payment Bond (Irrevocable Letters of Credit)	1	Within 15 calendar days after Contract Award	CO
H.2.4 Insurance	1	Within 15 calendar days after Contract Award	CO
H.12.1 Safety Plan	1	Within 15 calendar days after Contract Award	COR
F.3 Construction Schedule	1	Within 15 calendar days after Contract Award	COR
H.15.1 Submittal Register	1	Within 15 calendar days after Contract Award	COR
E.4 Quality Management Program	1	Within 15 calendar days after Contract Award	COR
G.4 Payment Request	1	monthly after FNTF	CO&COR
F.7 Monthly Progress Report	1	monthly after FNTF	COR
I.1 Updates to Construction Schedule (52.236-15)	1	last calendar day of each month	COR
E.2 Request for Substantial Completion Inspection	1	15 workdays before inspection	COR
E.5 Request for Final Completion Inspection	1	15 workdays before inspection	COR
H.4.4 As-Built Drawings	1	30 calendar days after final inspection	COR
E.6.3 Final Payment Release	1	with final invoice	CO&COR

**NOTE:** Any and all costs for the preparation, handling and submission of weekly and monthly reports shall be included in the total price of the contract.

#### F.5 ACCEPTANCE OF SCHEDULE

When the Government has accepted any time schedule, it shall be binding upon the Contractor. The completion date is fixed and may be extended only by a written contract modification signed by the Contracting Officer. Acceptance or approval of any schedule or revision thereof by the Government

acceptance or approval of any delay, nor (3) excuse the Contractor from or relieve the Contractor of its obligation to maintain the progress of the work and achieve final completion by the established completion date.

#### **F.6 NOTICE TO PROCEED**

Upon award of the contract, and receipt of the Letter of Credits, evidence of insurance and acceptance of these documents, the Contracting Officer will issue to the Contractor a Notice to Proceed (NTP) which shall allow the contractor to commence work on the project in accordance with the Construction Schedule (See Section F.3).

#### **F.7 MONTHLY PROGRESS REPORT**

Monthly progress reports shall be submitted by the last calendar day of each month during this contract. Reports shall be in letter format and contain information relevant to this project, including, but not limited to, accomplishments during the previous month, anticipated accomplishments for the next month, arising or occurring problems and possible or proposed solutions, questions that require answers or directions from the Post, any pending Government review comments regarding the Contractor's submittals, any proposed change orders that have not been executed, and any other pertinent information required to report the progress of performance under this contract.

#### **F.8 FAR 52.242-14 - SUSPENSION OF WORK (APR 1984)**

(a) The Contracting Officer may order the Contractor, in writing, to suspend, delay, or interrupt all or any part of the work of this contract for the period of time that the Contracting Officer determines appropriate for the convenience of the Government.

(b) If the performance of all or any part of the work is, for an unreasonable period of time, suspended, delayed, or interrupted

(1) By an act of the Contracting Officer in the administration of this contract, or

(2) By the Contracting Officer's failure to act within the time specified in this contract (or within a reasonable time if not specified), an adjustment shall be made for any increase in the cost of performance of this contract (excluding profit) necessarily caused by the unreasonable suspension, delay, or interruption, and the contract modified in writing accordingly.

However, no adjustment shall be made under this clause for any suspension, delay, or interruption to the extent that performance would have been so suspended, delayed, or interrupted by any other cause,

including the fault or negligence of the Contractor, or for which an equitable adjustment is provided for or excluded under any other term or condition of this contract.

(c) A claim under this clause shall not be allowed

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(1) For any costs incurred more than 20 days before the Contractor shall have notified the Contracting Officer in writing of the act or failure to act involved (but this requirement shall not apply as to a claim resulting from a suspension order); and

(2) Unless the claim, in an amount stated, is asserted in writing as soon as practicable after the termination of the suspension, delay, or interruption, but not later than the date of final payment under the contract.

**CONFERENCE-**

**May 27 2014. @ 10.AM the US  
Embassy**

**F.10 NOTICE OF DELAY**

In the event the Contractor receives a notice of any change in the work, or if any other conditions arise which are likely to cause or are actually causing delays which the Contractor believes may result in completion of the project after the completion date, the Contractor shall notify the Contracting Officer of the effect, if any, of such change or other conditions upon the approved schedule, and shall state in what respects, if any, the relevant schedule or the completion date should be revised. Such notice shall be given promptly and not more than ten (10) days following the first occurrence of event giving rise to the delay or prospective delay. Revisions to the approved time schedule shall only be made with the approval of the Contracting Officer.

**F.11 WORKING HOURS**

(a) Normal working hours at the site are 9 hours per day between the hours of 07:00 – 17:00 hrs Monday through Saturday, except on holidays listed below. Actual construction work hours shall be coordinated with the COR. The COR may, upon request and if circumstances permit, approve other hours and/or work on weekends and holidays provided that no additional costs will arise to the U.S. Government as a result thereof. A minimum of 24 hours advance notice of intent to request other hours shall be given to the COR.

(b) In addition to the recognized public holidays, the Department of State observes the following American holidays, and/or any other day designated by Federal law, Executive Order or Presidential Proclamation.

**2014 Holiday Schedule N/A**

**F.12 EXCUSABLE DELAYS**

The Contractor will be allowed time, not money, for excusable delays as defined in the following clause:

**FAR 52.249-10 DEFAULT (FIXED-PRICE CONSTRUCTION) (APR 1984)**

(a) If the Contractor refuses or fails to prosecute the work or any separable part, with the diligence that will insure its completion within the time specified in this contract including any extension, or fails to complete the work within this time, the Government may, by written notice to the Contractor, terminate the right to proceed with the work (or the separable part of the work) that has been delayed. In this event, the Government may take over the work and complete it by contract or otherwise, and may take possession of and use any materials, appliances, and plant on the work site necessary for completing the work. The Contractor and its sureties shall be liable for any damage to the Government resulting from the Contractor's refusal or failure to complete the work within the specified time, whether or not the Contractor's right to proceed with the work is terminated. This liability includes any increased costs incurred by the Government in completing the work.

(b) The Contractor's right to proceed shall not be terminated nor the Contractor charged with damages

(1) The delay in completing the work arises from unforeseeable causes beyond the control and without the fault or negligence of the Contractor. Examples of such causes include --

- (i) Acts of God or of the public enemy,
- (ii) Acts of the Government in either its sovereign or contractual capacity,
- (iii) Acts of another Contractor in the performance of a contract with the Government,
- (iv) Fires,
- (v) Floods,
- (vi) Epidemics,
- (vii) Quarantine restrictions,
- (viii) Strikes,
- (ix) Freight embargoes,
- (x) Unusually severe weather, or
- (xi) Delays of subcontractors or suppliers at any tier arising from unforeseeable causes beyond the control and without the fault or negligence of both the Contractor and the subcontractors or suppliers; and

(2) The Contractor, within 10 days from the beginning of any delay (unless extended by the Contracting Officer), notifies the Contracting Officer in writing of the causes of delay. The Contracting Officer shall ascertain the facts and the extent of delay. If, in the judgment of the Contracting Officer, the findings of fact warrant such action, the time for completing the work shall be extended. The findings of the Contracting Officer shall be final and conclusive on the parties, but subject to appeal under the Disputes clause.

(c) If, after termination of the Contractor's right to proceed, it is determined that the Contractor was not in default, or that the delay was excusable, the rights and obligations of the parties will be the same as if the termination had been issued for the convenience of the Government.

(d) The rights and remedies of the Government in this clause are in addition to any other rights and remedies provided by law or under this contract.

### **F.13 FAR 52.236-26 – PRE-CONSTRUCTION CONFERENCE (FEB 1995)**

If the Government decides to conduct a pre-performance and/or pre-construction conference, the successful offeror will be notified and will be required to attend. The notification will include specific details regarding the date, time, and location of the conference, any need for attendance by subcontractors, and information regarding the items to be discussed.

## **SECTION G - CONTRACT ADMINISTRATION DATA**

### **G.1 AUTHORITY OF CONTRACTING OFFICER**

All work shall be performed under the general direction of the Contracting Officer, who alone shall have the power to bind the Government and to exercise the rights, responsibilities, authorities and functions vested by the contract, except that the Contracting Officer and the Procurement Executive shall have the right to designate authorized representatives to act for the Contracting Officer, as specifically provided in the designation of that individual.

### **G.2 DOSAR 652.242-70 CONTRACTING OFFICER'S REPRESENTATIVE (COR)(AUG 1999)**

(a) The Contracting Officer may designate in writing one or more Government employees, by name or position title, to take action for the Contracting Officer under this contract. Each designee shall be

and limitations of the authority so delegated; provided, that the designee shall not change the terms or conditions of the contract, unless the COR is a warranted Contracting Officer and this authority is delegated in the designation.

(b) The COR for this contract will be Mario Narvaez.

### **G.3 FAR 52.236-6 SUPERINTENDENCE BY THE CONTRACTOR (APR 1984)**

At all times performance of this contract and until the work is completed and accepted, the Contractor shall directly superintend the work or assign and have on the work site a competent superintendent who is satisfactory to the Contracting Officer and has authority to act for the Contractor.

### **G.4 PAYMENT CONSTRUCTION SERVICES**

#### **G.4.1 General**

The Contractor's attention is directed to Section I, 52.232-5, "Payments Under Fixed-Price Construction Contracts". The following subsections elaborate upon the information contained therein.

#### **G.4.2 Detail of Payment Requests**

Each request for payment, which shall be made no more frequently than monthly, unless otherwise provided herein, shall cover the value of labor and materials completed and in place, including a pro-rated portion of overhead and profit. Original invoices shall be addressed to:

#### **G.4.3 Payments to Subcontractors**

The Contractor shall make timely payment from the proceeds of the progress or final payment for which request is being made, to his subcontractors and suppliers in accordance with the Contractor's contractual arrangements with them.

Along with each request for progress payments, the Contractor shall furnish the following certification, or payment shall not be made: (However, the Contractor may elect to delete paragraph (c)(4) from the certification.)

"I hereby certify, to the best of my knowledge and belief, that –

- (1) The amounts requested are only for performance in accordance with the specifications, terms, and conditions of the contract;
- (2) Payments to subcontractors and suppliers have been made from previous payments received under the contract, and timely payments will be made from the proceeds of the payment covered by this certification, in accordance with subcontract agreements and the requirements of chapter 39 of Title 31, United States Code;
- (3) This request for progress payments does not include any amounts which the prime contractor intends to withhold or retain from a subcontractor or supplier in accordance with the terms and conditions of the subcontract; and
- (4) This certification is not to be construed as final acceptance of a subcontractor's performance.

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(Name)

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(Title)

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(Date)

#### G.4.4 Evaluation

Following receipt of the Contractor's request for payment, and on the basis of an inspection of the work, the COR shall make a determination as to the amount which, in his/her opinion, is then due. In the event the COR does not approve payment of the full amount applied for, less the retainage addressed in FAR 52.232-5, the COR shall advise the Contractor of the reasons therefore.

#### G.4.5 Additional Withholding

Independently of monies retained by the Government under FAR 52.232-5, or otherwise as permitted to be retained under this contract, the Government may withhold from payments due the Contractor any amounts considered necessary to cover:

- (a) Wages or other amounts due the Contractor's employees on this project;
- (b) Wages or other amounts due employees of subcontractors on this project;
- (c) Amounts due suppliers of materials or equipment for this project; and
- (d) Any other amounts for which the Contractor may be held liable under this contract, including but not limited to the actual or prospective costs of correction of defective work and prospective liquidated damages when the Contractor has failed to make adequate progress.

#### G.4.6 Payment

In accordance with FAR 52.232-27(a) the 14-day period identified in FAR 52.232-27(a)(1)(i)(A) is hereby changed to 30 days.

### G.5 ADVANCE PAYMENT

**Advance Payments shall not be authorized during the performance of this contract.**

## SECTION H - SPECIAL CONTRACT REQUIREMENTS

### H.1 BOND REQUIREMENTS

#### H.1.1 Bonds Required

Pursuant to Far 52.228-15 - "Performance and Payment Bonds – Construction", this is an International contract for which normal bonds under the Miller Act do not apply. Irrevocable Letters of Credit (ILOC) are the preferred security for this project. RETAINAGE OF 10% WILL BE WITHELD IN LIEU OF THE BOND REQUIREMENT.

#### H.1.2 Time for Submission

The Contractor shall provide the Irrevocable Letters of Credit (ILOC) required by paragraph H.1.1 above within 15 calendar days after contract award. Failure to timely submit (1) the required ILOC's or other security acceptable to the Government; (2) ILOC's from an acceptable surety; or (3) ILOC's in the required amount, may result in termination of the contract by the Government. Should the contract be terminated, the contractor will be liable for those costs as described in FAR 52.249-10, "Default (Fixed-Price Construction), which is included in Section I of this contract.

#### H.1.3 Coverage

execution and completion of the work within the contract time and the correction of any defects after completion as required by this contract, the payment of all wages and other amounts payable by the Contractor under its subcontracts or for labor and materials, and the satisfaction or removal of any liens or encumbrances placed on the work.

#### **H.1.4 Duration of Coverage**

The required performance and payment securities shall remain in effect in the full amount required until final acceptance of the project by the Government. After final completion and acceptance, only the performance security shall remain in effect for one year in the amount of 10% of the contract price, and the Contractor shall pay any premium required for the entire period of coverage. The requirement for payment security terminates at final acceptance.

#### **H.1.5 FAR 52.228-2 – ADDITIONAL BOND SECURITY (OCT 1997)**

The Contractor shall promptly furnish additional security required to protect the Government and persons supplying labor or materials under this contract if -

- (a) Any surety, or issuing financial institution for other security, furnished with this contract becomes unacceptable to the Government;
- (b) Any surety fails to furnish reports on its financial condition as required by the Government; or
- (c) The contract price is increased so that the Letter of Credit becomes inadequate in the opinion of the Contracting Officer; or
- (d) An irrevocable letter of credit (ILC) used as security will expire before the end of the period of required security. If the contractor does not furnish an acceptable extension or replacement ILC, or other acceptable substitute, at least 30 days before an ILC's scheduled expiration, the Contracting Officer has the right to immediately draw on the ILC.

### **H.2 INSURANCE**

#### **H.2.1 Amount of Insurance**

The Contractor's attention is directed to Section I, 52.228-5, "Insurance - Work on a Government Installation". As required by this clause the Contractor is required to provide and maintain whatever insurance is legally necessary.

The Contractor shall, at his own expense, provide and maintain during the entire performance period General Liability (includes premises/ operations, collapse hazard, products, completed operations, contractual, independent contractors, broad form property damage, personal injury) in the minimum amount stated below.

#### **1. Bodily Injury on or off the site stated in US Dollars\*:**

Per Occurrence	\$250,000
Cumulative	\$500,000

#### **2. Property Damage on or off the site in US Dollars:**

Per Occurrence	\$250,000
Cumulative	\$500,000

conversion rate to that of the above stated US Dollar amount.

The foregoing types and amounts of insurance are the minimums required. The Contractor shall obtain any other types of insurance required by local law or that are ordinarily or customarily obtained in the location of the work. The limit of such insurance shall be as provided by law or sufficient to meet normal and customary claims.

The Contractor agrees that the Government shall not be responsible for personal injuries or for damages to any property of the Contractor, its officers, agents, servants, and employees, or any other person, arising from an incident to the Contractor's performance of this contract. The Contractor shall hold harmless and indemnify the Government from any and all claims arising thereof, except in the instance of gross negligence on the part of the Government.

The Contractor shall obtain adequate insurance for damage to, or theft of, materials and equipment in insurance coverage for loose transit to the site or in storage on or off the site.

#### **H.2.2 Government as Additional-Insured**

The general liability policy required of the Contractor shall name "the United States of America", as an additional-insured with respect to operations performed under this contract.

#### **H.2.3 Insurance-Related Disputes**

Failure to agree to any adjustment contemplated under this contract regarding insurance shall be a dispute within the meaning of the clause in Section I, 52.233-1 "Disputes". However, nothing in this clause shall excuse the Contractor from proceeding with the work, including the repair and/or replacement as herein above provided.

#### **H.2.4 Time for Submission of Evidence of Insurance**

The Contractor shall provide evidence of the insurance required under this contract within 15 calendar days from the date of contract award. Failure to timely submit this evidence, in a form acceptable to the Contracting Officer, may result in rescinding or termination of the contract by the Government.

### **H.3 DEFINITIONS**

In addition to the definitions provided in Section I, FAR 52.202-1 the following definitions shall apply when used in connection with this contract:

- (a) Contract Drawings or Drawings, where indicated by the context, means those drawings specifically listed in the executed construction contract or as later incorporated into the contract by contract modification or change order.
- (b) Day means a calendar day unless otherwise specifically indicated.
- (c) Host Country means the country in which the project is located.
- (d) Government-Furnished Property means property in the possession of, or directly acquired by the Government and subsequently made available to the Contractor. Government-Furnished Property includes Government-Furnished materials and Government-Furnished Equipment.
- (e) Material means all materials, fixtures and other articles incorporated in, or which are intended to remain with the project.

authorizing the Contractor to incur obligations and proceed with the work required by the type of Notice to Proceed issued, either “Design” or “Construction,” and in accordance with the terms and conditions of the contract as of a date set forth in the Notice.

- (g) Other Submittals includes progress schedules, setting drawings, testing and inspection reports, and other information required by the contract to be submitted by the Contractor for information or approval by the Government.
- (h) Project Data includes standard drawings, diagrams, layouts, schematics, descriptive literature, illustrations, schedules, performance and test data, and similar materials furnished by the Contractor to explain in detail specific portions of the work required by the contract.
- (i) Samples are physical examples, which illustrate materials, equipment or workmanship and establish standards by which the work will be judged.
- (j) Schedule of Defects means the list of items, prepared in connection with substantial completion of the work or early occupancy or utilization of a portion thereof, which the COR has designated as remaining to be performed, completed or corrected before the work will be accepted by the Government.
- (k) Separate Contractor means a contractor, other than the Contractor or any of its subcontractors, to whom the Government has awarded a contract for construction of a portion of the project.
- (l) Work means any and all permanent construction, which is intended to be incorporated into the finished project and required to be performed or otherwise provided by the Contractor under this contract, unless otherwise indicated by the context.

#### **H.4 OWNERSHIP AND USE OF DOCUMENTS**

##### **H.4.1 Ownership and Use of Drawings, Specifications and Models**

(a) All designs, drawings, specifications, models, notes and other works developed in the performance of this contract shall become the sole property of the US Government and may be used on any other design construction without additional compensation to the Contractor. The US Government shall be considered “person from whom the work was prepared” for the purpose of authorship in any copyrightable work under Section 201(B) of Title 17, United States Code. The Contractor agrees not to assert or authorize others to assert any rights nor establish any claim under the design patent or copyright laws. The Contractor, for a period of three years after completion of the project, agrees to furnish all retained works at the request of the US Government. Unless otherwise provided in this contract, the Contractor shall have the right to retain copies of all works beyond such period, except in the case of classified designs, drawings, specification, and any other documents.

(b) Use and Return. Unless otherwise provided in the contract, the documents described in (a) above are not to be used by other than the Contractor or by the Contractor on other work and, with the exception of the signed Contractor set, additional copies thereof provided to or made by the Contractor shall be returned or suitably accounted for by the Contractor upon final completion of the work.

##### **H.4.2 Supplemental Documents**

The Contracting Officer or COR may furnish from time to time such detailed drawings and other information as is considered necessary, in the opinion of the Contracting Officer, to interpret, clarify, supplement, or correct inconsistencies, errors or omissions in the contract documents, or to describe minor changes in the work not involving an increase in the contract price or extension of the contract time. The Contractor shall comply with the requirements of the supplemental documents, and unless the Contractor makes objection within twenty (20) days, their issuance shall not provide for any claim

### **H.4.3 Record Documents**

The Contractor shall maintain at the project site a current marked set of contract drawings and specifications indicating all interpretations and clarification, contract modifications, change orders, or any other departure from the contract requirements approved by the COR, and a complete set of record shop drawings, product data, samples and other submittals as approved by the COR.

### **H.4.4 "As-Built" Documents**

After final completion of the work, but before final acceptance thereof, the Contractor shall provide complete sets of "as-built" drawings, based upon the record set of drawings, marked to show the details of construction as actually accomplished, and record shop drawings and other submittals, in the number and form as required by the specifications. "As built" documents shall be provided in the same form, as construction documents.

## **H.5. SECURITY**

### **H.5.1 Documentation**

The following considerations shall be followed by the Contractor and/or shall be incorporated into the design documents.

- (a) All documents received or generated under the contract are the property of the US Government.
- (b) All documents are to be controlled and disseminated on a need—to-know basis. Reproduction and distribution is prohibited without express approval of the US Government. All design and construction documents generated shall be annotated as follows:

## **H.6 GOVERNING LAW**

This contract and the interpretation thereof shall be governed by the laws of the United States of America.

## **H.7 LANGUAGE PROFICIENCY**

The manager assigned by the contractor to superintend the work on-site, as required by Section I, 52.236-6, "Superintendence by the Contractor", shall be fluent in written and spoken English.

## **H.8 LAWS AND REGULATIONS**

### **H.8.1 Compliance Required**

The Contractor shall, without additional expense to the Government, be responsible for complying with all laws, codes, ordinances, and regulations applicable to the performance of the work, including those of the host country, and with the lawful orders of any governmental authority having jurisdiction. Host country authorities may not enter the construction site without the permission of the US Government. Unless otherwise directed by the Contracting Officer, the Contractor shall comply with the more stringent of the requirements of such laws, regulations and orders and of the contract. In case of a conflict between the contract and such laws, regulations and orders, the Contractor shall promptly

resolution by the Contracting Officer.

#### **H.8.2 Labor, Health and Safety Laws and Customs**

The Contractor shall comply with all local labor laws, regulations, customs and practices pertaining to labor, safety, and similar matters, to the extent that such compliance is not inconsistent with the requirements of this contract.

#### **H.8.3 Subcontractors**

The Contractor shall give written assurance to the Contracting Officer that all subcontractors and others performing work on or for the project have obtained all requisite licenses and permits.

#### **H.8.4 Evidence of Compliance**

Proper documentation and evidence satisfactory to the Contracting Officer of compliance with this clause shall be submitted by the Contractor at such times as directed by the Contracting Officer.

### **H.9 RESPONSIBILITY OF CONTRACTOR**

#### **H.9.1 Damage to Persons or Property**

The Contractor shall be responsible for all damages to persons or property that occur as a result of the Contractor's fault or negligence, and shall take proper safety and health precautions to protect the work, the workers, the public, and the property of others.

#### **H.9.2 Responsibility for Work Performed**

The Contractor shall be responsible for all materials delivered and work performed until final completion and acceptance of the entire work, except for any completed unit of work, which may have been accepted in writing under the contract.

#### **H.9.3 Utilities and Facilities**

The contractor will have the overall responsibility for providing all utilities such as water and electricity, and making all temporary connections and subsequent removal and restoration as a result of the contractor's action. Drinking Water and Electrical connection with intent to be used for the project work will be provided at a single point by the Government. The contractor shall be responsible to make arrangement for further distribution from this single point.

### **H.10 CONSTRUCTION OPERATIONS**

#### **H.10.1 Operations and Storage Areas**

(a) Confinement to Authorized Areas - The Contractor shall confine all operations (including storage of materials) on the premises to areas authorized or approved by the COR.

(b) Vehicular Access - The Contractor shall and in accordance with any regulations prescribed by the Contracting Officer, use only established site entrances and roadways.

## H.11 TEMPORARY FACILITIES AND SERVICES

The Contractor may erect temporary buildings (such as, storage sheds, shops, offices) and utilities only with the approval of the Contracting Officer. The cost of these temporary buildings is included in the contract fixed price. The temporary buildings and utilities shall remain the property of the Contractor and shall be removed by the Contractor at its expense upon completion of the work. With the written consent of the Contracting Officer, the buildings and utilities may be abandoned and need not be removed.

## H.12 SAFETY

### H.12.1 Accident Prevention

(a) General - The Contractor shall provide and maintain work environments and procedures which will (1) safeguard the public, Government personnel, property, materials, supplies, and equipment exposed to Contractor operations and activities; (2) avoid interruptions of Government operation and delays in project completion dates; and (3) control costs in the performance of this contract. For these purposes, the Contractor shall -

- (1) Provide appropriate safety barricades, signs and signal lights;
- (2) Comply with the standards issued by any local government authority having jurisdiction over occupational health and safety issues; and
- (3) Ensure that any additional measures the Contracting Officer determines to be reasonably necessary for this purpose are taken.

(b) Safety Manager - (1) The Contractor shall designate a safety manager for this contract. The safety manager shall be responsible for coordination of safety procedures, and monitoring of those aspects of the work that pose the greatest safety risks. (2) If, during the performance of this contract, the contractor encounters hazardous materials (including asbestos-containing materials, etc), the contractor shall immediately report the situation to the COR.

(c) Records - The Contractor shall maintain an accurate record of exposure data on all accidents incident to work performed under this contract resulting in death, traumatic injury, occupational disease, or damage to or theft or loss of property, materials, supplies, or equipment. The Contractor shall report this data in the manner prescribed by the COR.

(d) Subcontracts - The Contractor shall be responsible for its subcontractors' compliance with this clause.

(e) Written Program - Before commencing work, the Contractor shall --

- (1) Submit a written proposal for implementing this clause; and
- (2) Meet with the COR to discuss and develop a mutual understanding relative to administration of the overall safety program.

(f) Notification - The COR will notify the Contractor of any non-compliance with these requirements and the corrective actions required. This notice, when delivered to the Contractor or the Contractor's representative at site, shall be deemed sufficient notice of the non-compliance and corrective action required. After receiving the notice, the Contractor shall immediately take corrective action. If the Contractor fails or refuses to promptly take corrective action, the Contracting Officer may issue an

Contractor shall not be entitled to any equitable adjustment of the contract price or extension of the performance schedule on any suspension of work issued under this clause.

## **H.13 SUBCONTRACTORS AND SUPPLIERS**

### **H.13.1 Claims and Encumbrances**

The Contractor shall satisfy as due all lawful claims of any persons or entities employed by the Contractor, including subcontractors, material men and laborers, for all labor performed and materials furnished under this contract, including the applicable warranty or correction period, unless the Government shall be directly liable therefore by the contract. The Contractor shall not at any time permit any lien, attachment, or other encumbrance to be entered against or to remain on the building(s), or the premises, whether public or private, or any portion thereof, as a result of nonperformance of any part of this contract.

### **H.13.2 Approval of Subcontractors**

(a) Review and approval The Government reserves the right to review proposed subcontractors for a period of five (5) calendar days before providing notice of approval or rejection of any or all subcontractors.

(b) Rejection of subcontractors The Government reserves the right to reject any or all subcontractors proposed if their participation in the project, as determined by the Contracting Officer, may cause damage to the national security interests of the United States. The Contractor agrees to promptly replace any subcontractor rejected by the Government under this clause.

## **H.14 CONSTRUCTION**

### **PERSONNEL H.14.1 Key Personnel**

(a) The Contractor shall assign to this contract the following key person to the identified position/function:

<b>Position/Function</b>	<b>Name</b>
Project Manager	
Project Engineer	
Quality Assurance Manager	

The offeror shall provide a detailed resume and the experience of four individuals. At least two of these individuals shall be current employees who have worked with the offeror for more than 1 year managing similar projects. If these individuals are not current employees provide a letter of intent. All off the above are considered to be Key personnel and are required to be able to read, write, speak and understand English, and the contractor shall provide proof with their original offer. See section

Volume 2 (1) Key personnel.

(b) During the entire performance period of this contract, the Contractor shall make no substitutions of key personnel unless the substitution is necessitated by illness, death, or termination of employment. The Contractor shall notify the Contracting Officer within 15 calendar days after the occurrence of any of these events and provide the information required by paragraph H.14.4 to the Contracting Officer at least 15 days prior to making any permanent substitutions. The Contractor shall provide a detailed explanation of the circumstances necessitating the proposed substitution, complete resume for the proposed substitute, and any additional information requested by the Contracting Officer. The proposed substitute shall possess qualifications comparable to the original key person, as well as satisfying any minimum standards set forth elsewhere in the solicitation/contract. The Contracting Officer will notify the Contractor within 15 calendar days after receipt of all required information of the decision on the substitution. This clause will be modified to reflect any changes in key personnel.

#### **H.14.2 Removal of Personnel**

The Contractor shall maintain discipline at the site and at all times take all reasonable precautions to prevent any unlawful, riotous or disorderly conduct by or amongst those employed at the site and for the preservation of peace and protection of persons and property in the neighborhood of the project against the same. The COR may require, in writing, that the Contractor remove from the work any employee that the COR deems incompetent, careless, insubordinate or otherwise objectionable, or whose continued employment on the project is deemed by the COR to be contrary to the Government's interests.

#### **H.14.3 Notice to the Government of Labor Disputes**

If the Contractor has knowledge that any actual or potential labor dispute is delaying or threatening to delay the timely performance of this contract, the Contractor shall immediately give notice, including all relevant information, to the Contracting Officer.

#### **H.14.4 Construction Security**

##### **H.14.4.1 Contractor Personnel**

After award of the contract, the Contractor shall have (15) fifteen calendar days to submit to the COR, a list of workers and supervisors assigned to this project (Biographic Data on Personnel) for the Government to conduct all necessary security checks. It is anticipated that security checks may take up to one month to perform. For each individual the list shall include:

Full Name  
Place and Date of Birth  
Current Address  
Identification number

Failure to provide any of the above information may be considered grounds for rejection and/or re-submittal of the application. Once the Government has completed the security screening and approved the applicants, the Government will provide a badge to the individual for access to the site. The Government may revoke this badge at any time due to the falsification of data, or misconduct on site.

## **H.15 MATERIALS AND EQUIPMENT**

### **H.15.1 Selection and Approval of Materials**

(a) Standard of quality - All materials and equipment incorporated into the work shall be new and for the purpose intended, unless otherwise specified, and all workmanship shall be of good quality and performed in a skillful manner as determined by the COR.

(b) Selection by Contractor - Where the contract permits the Contractor to select products, materials or equipment to be incorporated in the work, or where specific approval is otherwise required by the contract, the Contractor shall furnish to the COR, for approval, the names of the manufacturer, model number, and source of procurement of each such product, material or equipment, together with other pertinent information concerning the nature, appearance, dimensions, performance, capacity, and rating thereof, unless otherwise required by the COR. The Contractor shall provide such information in a sufficiently timely manner to permit evaluation against the requirements of the contract. In order to ensure a timely review the Contractor shall provide a submittal register within 14 calendar days of submitting the Final Construction Documents showing when shop drawings, samples, or submittals shall be made. When directed to do so, the Contractor shall submit samples for approval at the Contractor's expense, with all shipping charges prepaid. Installation or use of any products, materials or equipment without the required approval shall be at the risk of subsequent rejection.

### **H.15.2 Custody of Materials**

The Contractor shall be responsible for the custody of all materials received for incorporation into the project, including Government furnished materials, upon delivery to the Contractor or to any person for whom it is responsible, including subcontractors. The Contractor shall deliver all such items to the site as soon as practicable. If required by the COR, the Contractor shall clearly mark in a manner directed by the COR all items of which the Contractor has custody but which have not been delivered or secured at the site, clearly indicating the use of such items for this US Government project.

### **H.15.3 Basis of Contract Price**

The contract price is based on the use of materials, products and equipment specified in the contract, and substitutions, variances or "Or-Equal" items proposed by the Contractor, which have been specifically approved by the Government at the time of execution of the contract. Any substitution approved by the Government after execution of the contract shall be subject to an appropriate adjustment of the contract price.

### **H.15.4 Substitutions**

(a) Prior approval is required before substitutions (1) proposed by the Contractor but not yet approved at the time of execution of the contract, or (2) proposed by the Contractor after execution of the contract may be used in the project. The Contractor must receive approval in writing from the COR. Any substitution request shall be accompanied by sufficient information to permit evaluation by the Government, including but not limited to the reasons for the proposed substitution and data concerning the design, appearance, performance, composition, and relative cost of the proposed substitute.

Requests for substitutions shall be made in a timely manner to permit adequate evaluation by the Government. If, in the COR's opinion, the use of such substitute items is not in the best interests of the Government, the Contractor shall obtain the items originally specified with no adjustment in the contract price or completion date.

(b) Approval through shop drawings - The Contractor may propose substitutions of materials in the submittal of shop drawings, provided such substitution is specifically requested in writing in the transmittal of the shop drawings to the COR. Such substitution requests shall be submitted in a timely manner and shall be supported by the required information.

(c) Final approval on delivery - Acceptance or approval of proposed substitutions under the contract is conditioned upon approval of items delivered at the site or approval by sample. Approval by sample shall not limit the Government's right to reject material after delivery to the site if the material does not conform to the approved sample in all material respects.

#### **H.15.5 "Or-Equal Clause"**

References in the specifications and drawings, to materials, products or equipment by trade name, make, or catalog number, or to specific processes, shall be regarded as establishing a standard of quality and shall not be construed as limiting competition. The Contractor may propose for approval or rejection by the COR the substitution of any material, product, equipment or process that the Contractor believes to be equal to or better than that named in the specifications and drawings, unless otherwise specifically provided in this contract.

#### **H.15.6 Use and Testing of Samples**

(a) Use Approved samples not destroyed in testing will be sent to the COR. Those in good condition will be marked for identification and may be used in the work. Materials and equipment incorporated in the work shall match the approved samples within any specified tolerances. Other samples not destroyed in testing or not approved will be returned to the Contractor at its expense if so requested.

(b) Failure of Samples Failure of any material to pass the specified tests will be sufficient cause for refusal to consider, under this contract, any further samples of the same brand or make of that material or equipment which previously has proved unsatisfactory in service.

(c) Taking and testing of Samples of various materials or equipment delivered on the site or in place may be taken by the COR for additional testing by the Government outside of those required by the Contract documents. Samples failing to meet contract requirements will automatically void previous approvals of the items tested. The Contractor shall replace such materials or equipment found not to have met contract requirements, unless the Contracting Officer determines it to be in the Government's interest to accept the non conforming materials or equipment with an appropriate adjustment of the Contract price as determined by the Contracting Officer.

(d) Cost of additional testing by the Government Unless otherwise specified, when additional tests are made, only one test of each sample proposed for use will be made at the expense of the Government.

Samples that do not meet contract requirements will be rejected. Further testing of additional samples, if required, will be made at the expense of the Contractor.

## **H.16 IMPORTED MATERIALS, EQUIPMENT, AND PERSONNEL**

### **H.16.1 Shipment and Customs Clearance**

(a) Costs to be borne solely by Contractor The Contractor is solely responsible without right of reimbursement from the Government for paying all charges, whatsoever, except customs duties as provided herein, incurred in obtaining materials that must be imported for the project and in transporting the materials from their place of origin to the construction site. Moving costs shall include, but not necessarily be limited to packing, handling, cartage, overland freight, ocean freight, transshipment, port, unloading, customs clearance and duties (other than customs duties as provided herein), unpacking, storage, and all other charges including administrative costs in connection with obtaining and transporting the materials from their source to the project site.

(b) Duty-free clearance The Contractor shall follow the instructions of the contract as to the manner of labeling the shipping containers or otherwise processing shipments of imported materials in order to obtain, or continue to receive, duty free clearance through customs. The Contractor shall be solely responsible without right of reimbursement from the Government, for the payment of customs duties, if any, which (1) are imposed on items which are not labeled and processed in accordance with the contract instructions, (2) are imposed on the Contractor's tools, construction equipment and machinery imported for use on the project, or (3) are otherwise ineligible for duty-free entry.

(c) Customs Clearance The Contractor shall be responsible for obtaining customs clearances. The US Government shall be responsible for obtaining exemption certificates or paying customs duties not waived, for imported products, materials and equipment that are labeled and processed in accordance with the contract instructions. The Government shall not be responsible for obtaining customs clearance for the Contractor's tools, construction equipment or machinery, nor for obtaining visas, entry or work permits for the Contractor's personnel.

### **H.16.2 Surplus Materials**

Unless otherwise specified, any surplus materials, fixtures, articles or equipment remaining at the completion of the project shall become the property of the Contractor, except those items furnished by the Government, the cost of which is not included in the contract price.

## **H.17 SPECIAL WARRANTIES**

### **H.17.1 Special Warranty Obligations**

Any special warranties that may be required under the contract shall be subject to the stipulations set forth in Section I, 52.246-21, "Warranty of Construction" insofar as they do not conflict with the provisions of such special warranties.

### **H.17.2 Warranty Information**

The Contractor shall obtain and furnish to the Government all information that is required in order to make any subcontractor, manufacturer, or supplier's guaranty or warranty legally binding and effective, and shall submit both the information and the guaranty or warranty to the Government in sufficient time to permit the Government to meet any time limit requirements specified in the guaranty or warranty, but not later than completion and acceptance of all work under this contract.

## **H.18 EQUITABLE ADJUSTMENTS**

### **H.18.1 Basis for Equitable Adjustments**

Any circumstance for which the contract provides an equitable adjustment, that causes a change within the meaning of paragraph (a) of the "Changes" clause 52.243-4 shall be treated as a change under that clause; provided, that the Contractor gives the Contracting Officer prompt written notice within a limit of 20 days stating:

- (a) the date, circumstances, and applicable contract clause authorizing an equitable adjustment and
- (b) that the Contractor regards the event as a changed condition for which an equitable adjustment is allowed under the contract.

### **H.18.2 Differing Site Condition Notice**

The Contractor shall provide written notice of a differing site condition within ten (10) calendar days of occurrence in accordance with additional information provided in FAR 52.236-2, Differing Site Condition.

### **H.18.3 Documentation of Proposals for Equitable Adjustments**

- (a) Itemization of proposals and requests Any request for equitable adjustment in the contract price, including any change proposal submitted in accordance with the "Changes" clause, shall be submitted in the form of a lump sum proposal supported with an itemized breakdown of all increases and decreases in the contract price in at least the detail required by the Contracting Officer, and shall include all costs and delays related to or arising out of the change or event giving rise to the proposed adjustment, including any delay damages and additional overhead costs.
- (b) Proposed time adjustments The Contractor shall submit with any request for an equitable adjustment or change proposal a proposed time extension (if applicable) and shall include sufficient information to demonstrate whether and to what extent the change will delay the contract in its entirety.
- (c) Release by Contractor The price and time adjustment made in any contract modification issued as a result of a change proposal or request for an equitable adjustment shall be considered to account for all items affected by the change or other circumstances giving rise to an equitable adjustment. Upon the issuance of such contract modification, the Government shall be released from any and all liability

under this contract for further equitable adjustments attributable to the facts and circumstances giving rise to the change proposal or request for equitable adjustment.

#### **H.19 NONCOMPLIANCE WITH CONTRACT REQUIREMENTS**

In the event the Contractor, after receiving written notice from the Contracting Officer of noncompliance with any requirement of this contract, fails to initiate promptly such action as may be appropriate to comply with the specified requirement within a reasonable period of time, the Contracting Officer shall have the right to order the Contractor to suspend any or all work under the contract until the Contractor has complied or has initiated such action as may be appropriate to comply within a reasonable period of time. The Contractor will not be entitled to any extension of contract time or payment for any costs incurred as a result of being ordered to stop work for such a cause.

#### **H.20 ASSIGNMENT**

The Contractor shall not assign the contract or any part thereof without the written consent of the Contracting Officer, nor shall the Contractor assign any moneys or other benefits due or to become due to him hereunder, without the prior written consent of the Contracting Officer.

#### **H.21 AVAILABILITY OF FUNDS**

The Government's obligation under this contract is contingent upon the availability of appropriated funds from which payment for contract purposes can be made. No legal liability on the part of the Government for any payment may arise until funds are made available to the Contracting Officer and until the Contractor receives written notice from the Contracting Officer confirming such availability. See also Section I, FAR 52.232-18.

#### **H.22 ASBESTOS-CONTAINING MATERIALS RESTRICTION**

Asbestos-free materials shall be used. The Government reserves the right at no additional cost to the Government to disapprove and to disallow the installation of any item containing asbestos.

#### **H.23 FAR 52.236-1 PERFORMANCE OF WORK BY THE CONTRACTOR (APR 1984)**

The Contractor shall perform on the site, and with its own organization, work equivalent to at least Twenty (20) percent of the total amount of work to be performed under the contract. This percentage may be reduced by a supplemental agreement to this contract if, during performing the work, the Contractor requests a reduction and the Contracting Officer determines that the reduction would be to the advantage of the Government.

#### **H.24 ZONING APPROVALS AND BUILDING PERMITS**

The Government is responsible for:

- obtaining proper zoning or other land use control approval for the project,

- obtaining the approval of the Contract Drawings and Specifications,
- paying fees due, and
- obtaining and paying for the initial building permits.

## **SECTION I - CONTRACT CLAUSES**

### **I.1 FAR 52.252-2 - CLAUSES INCORPORATED BY REFERENCE (FEB 1998)**

This contract incorporates one or more clauses by reference, with the same force and effect as if they were given in full text. Upon request, the Contracting Officer will make their full text available. Also, the full text of a clause may be accessed electronically at these address(es):

Referenced FAR provisions and clauses can be obtained from:

<http://www.acquisition.gov/comp/far/current/html/FARTOCP52.html#wp340130>

Referenced DOSAR provisions and clauses can be obtained from:

[http://www.statebuy.state.gov/dosar/fullscreen.asp?menu\\_id=40](http://www.statebuy.state.gov/dosar/fullscreen.asp?menu_id=40)

These addresses are subject to change. If the Federal Acquisition Regulation (FAR) is not available at the locations indicated above, use the Dept. of State Acquisition Website at <http://www.statebuy.gov/home.htm> to see the links to the FAR. You may also use a network “search engine” (e.g., Yahoo, Excite, Alta Vista, etc.) to obtain the latest location of the most current FAR.

### **FEDERAL ACQUISITION REGULATION (48 CFR Ch. 1)**

<b><u>Clause</u></b>	<b><u>Title and Date</u></b>
52.202-1	Definitions (JAN 2012)
52.203-3	Gratuities (APR 1984)
52.203-5	Covenant Against Contingent Fees (APR 1984)
52.203-7	Anti-Kickback Procedures (OCT 2010)
52.203-8	Cancellation, Rescission, Recovery of Funds for Illegal or Improper Activity (JAN 1997)
52.203-10	Price or Fee Adjustment for Illegal or Improper Activity (JAN 1997)
52.203-12	Limitation on Payments to Influence Certain Federal Transactions (OCT 2010)
52.203-13	Contractor Code of Business and Conduct (APR 2010)
52.204-4	Printing/or Copied Double-Sided on Postconsumer Fiber Content Paper (MAY 2011)
52.204-9	Personal Identity Verification of Contractor Personnel (JAN 2011)
52.209-5	Certification Regarding Responsibility Matters (APR 2010)
52.209-6	Protecting the Government's Interest When Subcontracting with Contractors Debarred, Suspended, or Proposed for Debarment (DEC 2010)

- 52.215-2 Audit and Records - Negotiation (OCT 2010)
- 52.215-8 Order of Precedence--Uniform Contract Format (OCT 1997)
- 52.222-1 Notice to the Government of labor disputes (FEB 1997)
- 52.223-18 Encouraging Contractor Policies to Ban Text Messaging while Driving (AUG 2011)
- 52.225-14 Inconsistency between English Version and Translation of Contract (FEB 2000)
- 52.228-2 Additional Bond Security (OCT 1997)
- 52.228.11 Pledges of Assets (JAN 2012)
- 52.228-12 Prospective Subcontractor Requests for Bonds (OCT 1995)
- 52.228-14 Irrevocable Letter Of Credit (DEC 1999)
- 52.228-15 Performance and Payment Bonds – Construction (OCT 2010)
- 52.229-6 Taxes - Foreign Fixed-Price Contracts (JUN 2003)
- 52.232-5 Payments under Fixed-Price Construction Contracts (SEP 2002)
- 52.232-18 Availability of Funds (APR 1984)
- 52.232-10 Payments under Fixed-Price Architect-Engineer Contracts (APRIL 2010)
- 52.232-17 Interest (OCT 2010)
- 52.232-24 Prohibition of Assignment of Claims (JAN 1986)
- 52.232-27 Prompt Payment for Construction Contracts (OCT 2008)
- 52.232-33 Payment by Electronic Funds Transfer – Central Contractor Registration (OCT 2003)
- 52.233-1 Disputes (JUL 2002)
- 52.233-3 Protest after Award (AUG 1996)
- 52.233-4 Applicable Law for Breach of Contract Claim (OCT 2004)
- 52.236-2 Differing Site Conditions (APR 1984)
- 52.236-3 Site Investigation and Conditions Affecting the Work (APR 1984)
- 52.236-5 Material and Workmanship (APR 1984)
- 52.236-6 Superintendence by the Contractor (APR 1984)
- 52.236-7 Permits and Responsibilities (NOV 1991)
- 52.236-8 Other Contracts (APR 1984)
- 52.236-9 Protection of Existing Vegetation, Structures, Equipment, Utilities and Improvements (APR 1984)
- 52.236-10 Operations and Storage Areas (APR 1984)
- 52.236-11 Use and Possession Prior to Completion (APR 1984)
- 52.236-12 Cleaning Up (APR 1984)
- 52.236-14 Availability and Use of Utility Services (APR 1984)

- 52.236-21 Specifications and Drawings for Construction (FEB 1997)
- 52.236-26 Pre-construction Conference (FEB 1995)
- 52.242-13 Bankruptcy (JUL 1995)
- 52.242-14 Suspension of Work. (APRIL 1984)
- 52.243-4 Changes (JUN 2007)
- 52.243-5 Changes and Changed Conditions (APR 1984)
- 52.246-21 Warranty of Construction (MAR 1994)
- 52.248-3 Value Engineering - Construction (OCT 2010)
- 52.249-2 Termination for Convenience of the Government (Fixed-Price)(APR 2012)
- 52.249-10 Default (Fixed-Price Construction)(APR 1984)

**The following clauses are set forth in full text:**

**I.2 FAR 52.204-99 – SYSTEM FOR AWARD MANAGEMENT REGISTRATION  
(AUG 2012) (DEVIATION)**

(a) *Definitions.* As used in this clause-

"Data Universal Numbering System (DUNS) number" means the 9-digit number assigned by Dun and Bradstreet, Inc. (D&B) to identify unique business entities.

"Data Universal Numbering System+4 (DUNS+4) number" means the DUNS number means the number assigned by D&B plus a 4-character suffix that may be assigned by a business concern. (D&B has no affiliation with this 4-character suffix.) This 4-character suffix may be assigned at the discretion of the business concern to establish additional SAM records for identifying alternative Electronic Funds Transfer (EFT) accounts (see the FAR at Subpart 32.11) for the same concern.

"Registered in the **SAM** database" means that-

- (1) The Contractor has entered all mandatory information, including the DUNS number or the DUNS+4 number, into the **SAM** database;
- (2) The Contractor's CAGE code is in the **SAM** database; and
- (3) The Government has validated all mandatory data fields, to include validation of the Taxpayer Identification Number (TIN) with the Internal Revenue Service (IRS), and has marked the record "Active". The Contractor will be required to provide consent for TIN Attachment, Page 1 of 4 validation to the Government as a part of the **SAM** registration process.

"System for Award Management (**SAM**)" means the primary Government repository for prospective federal awardee information and the centralized Government system for certain contracting, grants, and other assistance related processes. It includes-

(1) Data collected from prospective federal awardees required for the conduct of business with the Government;

(2) Prospective contractor submitted annual representations and certifications in accordance with FAR Subpart 4.12; and

(3) The list of all parties suspended, proposed for debarment, debarred, declared ineligible, or excluded or disqualified under the nonprocurement common rule by agencies, Government corporations, or by the Government Accountability Office.(b)

(1) The Contractor shall be registered in the **SAM** database prior to submitting an invoice and through final payment of any contract, basic agreement, basic ordering agreement, or blanket purchasing agreement resulting from this solicitation.

(2) The SAM registration shall be for the same name and address identified on the contract, with its associated CAGE code and DUNS or DUNS+4.

(3) If indicated by the Government during performance, registration in an alternate system may be required in lieu of **SAM**.

(c) If the Contractor does not have a DUNS number, it should contact Dun and Bradstreet directly to obtain one.

(1) A contractor may obtain a DUNS number-

(i) Via the internet at <http://fedgov.dnb.com/webform> or if the contractor does not have internet access, it may call Dun and Bradstreet at 1-866-705-5711 if located within the United States; or

(ii) If located outside the United States, by contacting the local Dun and Bradstreet office. The contractor should indicate that it is a contractor for a U.S. Government contract when contacting the local Dun and Bradstreet office.

(2) The Contractor should be prepared to provide the following information:

(i) Company legal business name.

(ii) Tradestyle, doing business, or other name by which your entity is commonly recognized.

(iii) Company physical street address, city, state and Zip Code.

(iv) Company mailing address, city, state and Zip Code (if separate from physical).

(v) Company telephone number.

(vi) Date the company was started.

(vii) Number of employees at your location.

(viii) Chief executive officer/key manager.

(ix) Line of business (industry).

(x) Company Headquarters name and address (reporting relationship within your entity).

(d) Reserved.

(e) Processing time for registration in **SAM**, which normally takes five business days, should be taken into consideration when registering. Contractors who are not already registered should consider applying for registration at least two weeks prior to invoicing.

(f) The Contractor is responsible for the accuracy and completeness of the data within the **SAM** database, and for any liability resulting from the Government's reliance on inaccurate or incomplete data. To remain registered in the **SAM** database after the initial registration, the Contractor is required to review and update on an annual basis from the date of initial registration or subsequent updates its information in the **SAM** database to ensure it is current, accurate and complete. Updating information in the **SAM** does not alter the terms and conditions of this contract and is not a substitute for a properly executed contractual document.

(i) If a Contractor has legally changed its business name, "doing business as" name, or division name (whichever is shown on the contract), or has transferred the assets used in performing the contract, but has not completed the necessary requirements regarding novation and change-of-name agreements in Subpart 42.12, the Contractor shall provide the responsible Contracting Officer sufficient documentation to support the legally changed name with a minimum of one business day's written notification of its intention to-

(A) Change the name in the SAM database;

(B) Comply with the requirements of subpart 42.12 of the FAR; and

(C) Agree in writing to the timeline and procedures specified by the responsible Contracting Officer.

(ii) If the Contractor fails to comply with the requirements of paragraph (g) (1) (i) of this clause, or fails to perform the agreement at paragraph (g) (1) (i) (C) of this clause, and, in the absence of a properly executed novation or change-of-name agreement, the **SAM** information that shows the Contractor to be other than the Contractor indicated in the contract will be considered to be incorrect information within the meaning of the "Suspension of Payment" paragraph of the electronic funds transfer (EFT) clause of this contract.

(2) The Contractor shall not change the name or address for EFT payments or manual payments, as appropriate, in the **SAM** record to reflect an assignee for the purpose of assignment of claims (see FAR Subpart 32.8 Assignment of Claims). Assignees shall be

record that indicates payments, including those made by EFT, to an ultimate recipient other than that Contractor will be considered to be incorrect information within the meaning of the "Suspension of payment" paragraph of the EFT clause of this contract.

(h) Contractors may obtain information on registration and annual confirmation requirements via the SAM accessed through <https://www.acquisition.gov> or by calling 866-606-8220, or 334-206-7828 for international calls.

### **I.3 FAR 52.209-9 UPDATES OF PUBLICLY AVAILABLE INFORMATION REGARDING RESPONSIBILITY MATTERS (FEB 2012)**

(a) The Contractor shall update the information in the Federal Awardee Performance and Integrity Information System (FAPIS) on a semi-annual basis, throughout the life of the contract, by posting the required information in the Central Contractor Registration database via <https://www.acquisition.gov>.

(b) As required by section 3010 of the Supplemental Appropriations Act, 2010 (Pub. L. 111-212), all information posted in FAPIS on or after April 15, 2011, except past performance reviews, will be publicly available. FAPIS consists of two segments—

(1) The non-public segment, into which Government officials and the Contractor post information, which can only be viewed by—

(i) Government personnel and authorized users performing business on behalf of the Government; or

(ii) The Contractor, when viewing data on itself; and

(2) The publicly-available segment, to which all data in the non-public segment of FAPIS is automatically transferred after a waiting period of 14 calendar days, except for—

(i) Past performance reviews required by subpart 42.15;

(ii) Information that was entered prior to April 15, 2011; or

(iii) Information that is withdrawn during the 14-calendar-day waiting period by the Government official who posted it in accordance with paragraph (c)(1) of this clause.

(c) The Contractor will receive notification when the Government posts new information to the Contractor's record.

(1) If the Contractor asserts in writing within 7 calendar days, to the Government official who posted the information, that some of the information posted to the non-public segment of FAPIS is covered by a disclosure exemption under the Freedom of Information Act, the Government official who posted the information must within 7 calendar days remove the posting from FAPIS and resolve the issue in accordance with agency Freedom of Information procedures, prior to reposting the releasable information. The contractor must cite 52.209-9 and request removal within 7 calendar days of the posting to FAPIS.

(2) The Contractor will also have an opportunity to post comments regarding information that has been

retained, i.e., for a total period of 6 years. Contractor comments will remain a part of the record unless the Contractor revises them.

(3) As required by section 3010 of Pub. L. 111-212, all information posted in FAPIIS on or after April 15, 2011, except past performance reviews, will be publicly available.

(d) Public requests for system information posted prior to April 15, 2011, will be handled under Freedom of Information Act procedures, including, where appropriate, procedures promulgated under E.O. 12600.

#### **I.4 FAR 52.215-19 NOTIFICATION OF OWNERSHIP CHANGES (OCT 1997)**

(a) The Contractor shall make the following notifications in writing:

(1) When the Contractor becomes aware that a change in its ownership has occurred, or is certain to occur, that could result in changes in the evaluation of its capitalized assets in the accounting records, the Contractor shall notify the Administrative Contracting Officer (ACO) within 30 days.

(2) The Contractor shall also notify the ACO within 30 days whenever changes to asset valuations or any other cost changes have occurred or are certain to occur as a result of a change in ownership.

(b) The Contractor shall--

(1) Maintain current, accurate, and complete inventory records of assets and their costs;

(2) Provide the ACO or designated representative ready access to the records upon request;

(3) Ensure that all individual and grouped assets, their capitalized values, accumulated depreciation or amortization, and remaining useful lives are identified accurately before and after each of the Contractor's ownership changes; and,

(4) Retain and continue to maintain depreciation and amortization schedules based on the asset records maintained before each Contractor ownership change.

(c) The Contractor shall include the substance of this clause in all subcontracts under this contract that meet the applicability requirement of FAR 15.408(k).

#### **I.5 FAR 52.222-50 COMBATING TRAFFICKING IN PERSONS (FEB 2009)**

(a) *Definitions.* As used in this clause—

“Coercion” means—

(1) Threats of serious harm to or physical restraint against any person;

(2) Any scheme, plan, or pattern intended to cause a person to believe that failure to perform an act would result in serious harm to or physical restraint against any person; or

(3) The abuse or threatened abuse of the legal process.

“Commercial sex act” means any sex act on account of which anything of value is given to or received by any person.

“Debt bondage” means the status or condition of a debtor arising from a pledge by the debtor of his or her personal services or of those of a person under his or her control as a security for debt, if the value of those services as reasonably assessed is not applied toward the liquidation of the debt or the length and nature of those services are not respectively limited and defined.

“Employee” means an employee of the Contractor directly engaged in the performance of work under the contract who has other than a minimal impact or involvement in contract performance.

“Forced Labor” means knowingly providing or obtaining the labor or services of a person—

(2) By means of any scheme, plan, or pattern intended to cause the person to believe that, if the person did not perform such labor or services, that person or another person would suffer serious harm or physical restraint; or

(3) By means of the abuse or threatened abuse of law or the legal process.

“Involuntary servitude” includes a condition of servitude induced by means of—

(1) Any scheme, plan, or pattern intended to cause a person to believe that, if the person did not enter into or continue in such conditions, that person or another person would suffer serious harm or physical restraint; or

(2) The abuse or threatened abuse of the legal process.

“Severe forms of trafficking in persons” means—

(1) Sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age; or

(2) The recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.

“Sex trafficking” means the recruitment, harboring, transportation, provision, or obtaining of a person for the purpose of a commercial sex act.

(b) *Policy.* The United States Government has adopted a zero tolerance policy regarding trafficking in persons. Contractors and contractor employees shall not—

(1) Engage in severe forms of trafficking in persons during the period of performance of the contract;

(2) Procure commercial sex acts during the period of performance of the contract; or

(3) Use forced labor in the performance of the contract.

(c) *Contractor requirements.* The Contractor shall—

(1) Notify its employees of—

(i) The United States Government’s zero tolerance policy described in paragraph (b) of this clause; and

(ii) The actions that will be taken against employees for violations of this policy. Such actions may include, but are not limited to, removal from the contract, reduction in benefits, or termination of employment; and

(2) Take appropriate action, up to and including termination, against employees or subcontractors that violate the policy in paragraph (b) of this clause.

(d) *Notification.* The Contractor shall inform the Contracting Officer immediately of—

(1) Any information it receives from any source (including host country law enforcement) that alleges a Contractor employee, subcontractor, or subcontractor employee has engaged in conduct that violates this policy; and

(2) Any actions taken against Contractor employees, subcontractors, or subcontractor employees pursuant to this clause.

(e) *Remedies.* In addition to other remedies available to the Government, the Contractor’s failure to comply with the requirements of paragraphs (c), (d), or (f) of this clause may result in—

(1) Requiring the Contractor to remove a Contractor employee or employees from the performance of the contract;

(2) Requiring the Contractor to terminate a subcontract;

(3) Suspension of contract payments;

(4) Loss of award fee, consistent with the award fee plan, for the performance period in which the Government determined Contractor non-compliance;

(5) Termination of the contract for default or cause, in accordance with the termination clause of this contract; or

(6) Suspension or debarment.

(f), in all subcontracts.

(g) *Mitigating Factor*. The Contracting Officer may consider whether the Contractor had a Trafficking in Persons awareness program at the time of the violation as a mitigating factor when determining remedies. Additional information about Trafficking in Persons and examples of awareness programs can be found at the website for the Department of State's Office to Monitor and Combat Trafficking in Persons at <http://www.state.gov/g/tip>.

#### **I.6 FAR 52.225-13 - RESTRICTIONS ON CERTAIN FOREIGN PURCHASES (JUN 2008)**

(a) Except as authorized by the Office of Foreign Assets Control (OFAC) in the Department of the Treasury, the Contractor shall not acquire, for use in the performance of this contract, any supplies or services if any proclamation, Executive order, or statute administered by OFAC, or if OFAC's implementing regulations at 31 CFR Chapter V, would prohibit such a transaction by a person subject to the jurisdiction of the United States.

(b) Except as authorized by OFAC, most transactions involving Cuba, Iran, and Sudan are prohibited, as are most imports from Burma or North Korea, into the United States or its outlying areas. Lists of entities and individuals subject to economic sanctions are included in OFAC's List of Specially Designated Nationals and Blocked Persons at <http://www.treas.gov/offices/enforcement/ofac/sdn>. More information about these restrictions, as well as updates, is available in the OFAC's regulations at 31 CFR Chapter V and/or on OFAC's website at <http://www.treas.gov/offices/enforcement/ofac>.

(c) The Contractor shall insert this clause, including this paragraph (c), in all subcontracts.

#### **I.7 FAR 52.228-3 – WORKERS COMPENSATION INSURANCE (DEFENSE BASE ACT) (APR 1984)**

The Contractor shall

(a) provide, before commencing performance under this contract, such workers' compensation insurance or security as the Defense Base Act (42 U.S.C. 1651, *et seq.*) requires and

(b) continue to maintain it until performance is completed. The Contractor shall insert, in all subcontracts under this contract to which the Defense Base Act applies, a clause similar to this clause (including this sentence) imposing upon those subcontractors this requirement to comply with the Defense Base Act.

#### **I.8 FAR 52.228-4 – WORKERS COMPENSATION AND WAR-HAZARD INSURANCE OVERSEAS (APR 1984).**

(a) This paragraph applies if the Contractor employs any person who, but for a waiver granted by the Secretary of Labor, would be subject to workers' compensation insurance under the Defense Base Act (42 U.S.C. 1651, *et seq.*). On behalf of employees for whom the applicability of the Defense Base Act has been waived, the Contractor shall

(1) provide, before commencing performance under this contract, at least that workers' compensation insurance or the equivalent as the laws of the country of which these employees are nationals may require, and

subcontracts under this contract to which the Defense Base Act would apply but for the waiver, a clause similar to this paragraph (a) (including this sentence) imposing upon those subcontractors this requirement to provide such workers' compensation insurance coverage.

(b) This paragraph applies if the Contractor or any subcontractor under this contract employs any person who, but for a waiver granted by the Secretary of Labor, would be subject to the War Hazards Compensation Act (42 U.S.C. 1701, *et seq.*). On behalf of employees for whom the applicability of the Defense Base Act (and hence that of the War Hazards Compensation Act) has been waived, the Contractor shall, subject to reimbursement as provided elsewhere in this contract, afford the same protection as that provided in the War Hazards Compensation Act, except that the level of benefits shall conform to any law or international agreement controlling the benefits to which the employees may be entitled. In all other respects, the standards of the War Hazards Compensation Act shall apply; *e.g.*, the definition of war-hazard risks (injury, death, capture, or detention as the result of a war hazard as defined in the Act), proof of loss, and exclusion of benefits otherwise covered by workers' compensation insurance or the equivalent. Unless the Contractor elects to assume directly the liability to subcontractor employees created by this clause, the Contractor shall insert, in all subcontracts under this contract to which the War Hazards Compensation Act would apply but for the waiver, a clause similar to this paragraph (b) (including this sentence) imposing upon those subcontractors this requirement to provide war-hazard benefits.

#### **I.9 FAR 52.236-15 SCHEDULES FOR CONSTRUCTION CONTRACTS (APR 1984)**

(a) The Contractor shall, within five days after the work commences on the contract or another period of time determined by the Contracting Officer, prepare and submit to the Contracting Officer for approval three copies of a practicable schedule showing the order in which the Contractor proposes to perform the work, and the dates on which the Contractor contemplates starting and completing the several salient features of the work (including acquiring materials, plant, and equipment). The schedule shall be in the form of a progress chart of suitable scale to indicate appropriately the percentage of work scheduled for completion by any given date during the period. If the Contractor fails to submit a schedule within the time prescribed, the Contracting Officer may withhold approval of progress payments until the Contractor submits the required schedule.

(b) The Contractor shall enter the actual progress on the chart as directed by the Contracting Officer, and upon doing so shall immediately deliver three copies of the annotated schedule to the Contracting Officer. If, in the opinion of the Contracting Officer, the Contractor falls behind the approved schedule, the Contractor shall take steps necessary to improve its progress, including those that may be required by the Contracting Officer, without additional cost to the Government. In this circumstance, the Contracting Officer may require the Contractor to increase the number of shifts, overtime operations, days of work, and/or the amount of construction plant, and to submit for approval any supplementary schedule or schedules in chart form as the Contracting Officer deems necessary to demonstrate how the approved rate of progress will be regained.

(c) Failure of the Contractor to comply with the requirements of the Contracting Officer under this clause shall be grounds for a determination by the Contracting Officer that the Contractor is not prosecuting the work with sufficient diligence to ensure completion within the time specified in the contract. Upon making this determination, the Contracting Officer may terminate the Contractor's right to proceed with the work, or any separable part of it, in accordance with the default terms of this

contract.

**I.11 DOSAR 652.225-71 SECTION 8(A) OF THE EXPORT ADMINISTRATION ACT OF 1979 AS AMENDED (AUG 1999)**

(a) Section 8(a) of the U.S. Export Administration Act of 1979, as amended (50 U.S.C. 2407(a)), prohibits compliance by U.S. persons with any boycott fostered by a foreign country against a country which is friendly to the United States and which is not itself the object of any form of boycott pursuant to United States law or regulation. The Boycott of Israel by Arab League countries is such a boycott, and therefore, the following actions, if taken with intent to comply with, further, or support the Arab League Boycott of Israel, are prohibited activities under the Export Administration Act:

- (1) Refusing, or requiring any U.S. person to refuse to do business with or in Israel, with any Israeli business concern, or with any national or resident of Israel, or with any other person, pursuant to an agreement of, or a request from or on behalf of a boycotting country;
- (2) Refusing, or requiring any U.S. person to refuse to employ or otherwise discriminating against any person on the basis of race, religion, sex, or national origin of that person or of any owner, officer, director, or employee of such person;
- (3) Furnishing information with respect to the race, religion, or national origin of any U.S. person or of any owner, officer, director, or employee of such U.S. person;
- (4) Furnishing information about whether any person has, has had, or proposes to have any business relationship (including a relationship by way of sale, purchase, legal or commercial representation, shipping or other transport, insurance, investment, or supply) with or in the State of Israel, with any business concern organized under the laws of the State of Israel, with any Israeli national or resident, or with any person which is known or believed to be restricted from having any business relationship with or in Israel;
- (5) Furnishing information about whether any person is a member of, has made contributions to, or is otherwise associated with or involved in the activities of any charitable or fraternal organization which supports the State of Israel; and,
- (6) Paying, honoring, confirming, or otherwise implementing a letter of credit which contains any condition or requirement against doing business with the State of Israel.

(b) Under Section 8(a), the following types of activities are not forbidden ``compliance with the boycott," and are therefore exempted from Section 8(a)'s prohibitions listed in paragraphs

(a)(1)-(6) above:

(1) Complying or agreeing to comply with requirements:

- (i) Prohibiting the import of goods or services from Israel or goods produced or services provided by any business concern organized under the laws of Israel or by nationals or residents of Israel; or,
- (ii) Prohibiting the shipment of goods to Israel on a carrier of Israel, or by a route other than that prescribed by the boycotting country or the recipient of the shipment;

- (2) Complying or agreeing to comply with import and shipping document requirements with respect to the country of origin, the name of the carrier and route of shipment, the name of the supplier of the shipment or the name of the provider of other services, except that no information knowingly furnished or conveyed in response to such requirements may be stated in negative, blacklisting, or similar exclusionary terms, other than with respect to carriers or route of shipments as may be permitted by such regulations in order to comply with precautionary requirements protecting against war risks and confiscation;
- (3) Complying or agreeing to comply in the normal course of business with the unilateral and specific selection by a boycotting country, or national or resident thereof, of carriers, insurance, suppliers of services to be performed within the boycotting country or specific goods which, in the normal course of business, are identifiable by source when imported into the boycotting country;
- (4) Complying or agreeing to comply with the export requirements of the boycotting country relating to shipments or transshipments of exports to Israel, to any business concern of or organized under the laws of Israel, or to any national or resident of Israel;
- (5) Compliance by an individual or agreement by an individual to comply with the immigration or passport requirements of any country with respect to such individual or any member of such individual's family or with requests for information regarding requirements of employment of such individual within the boycotting country; and,
- (6) Compliance by a U.S. person resident in a foreign country or agreement by such person to comply with the laws of that country with respect to his or her activities exclusively therein, and such regulations may contain exceptions for such resident complying with the laws or regulations of that foreign country governing imports into such country of trademarked, trade named, or similarly specifically identifiable products, or components of products for his or her own use, including the performance of contractual services within that country, as may be defined by such regulations.

#### **I.12 DOSAR 652.229-71 PERSONAL PROPERTY DISPOSITION AT POSTS ABROAD (AUG 1999)**

Regulations at 22 CFR Part 136 require that U.S. Government employees and their families do not profit personally from sales or other transactions with persons who are not themselves entitled to exemption from import restrictions, duties, or taxes. Should the contractor experience importation or tax privileges in a foreign country because of its contractual relationship to the United States Government, the contractor shall observe the requirements of 22 CFR Part 136 and all policies, rules, and procedures issued by the chief of mission in that foreign country.

#### **I.13 DOSAR 652.236-70 ACCIDENT PREVENTION (APR 2004)**

(a) General. The contractor shall provide and maintain work environments and procedures which will safeguard the public and Government personnel, property, materials, supplies, and equipment exposed to contractor operations and activities; avoid interruptions of Government operations and delays in project completion dates; and, control costs in the performance of this contract. For these purposes, the contractor shall:

- (1) Provide appropriate safety barricades, signs and signal lights;
- (2) Comply with the standards issued by any local government authority having jurisdiction over occupational health and safety issues; and,

(3) Ensure that any additional measures the contracting officer determines to be reasonably necessary for this purpose are taken.

(4) For overseas construction projects, the contracting officer shall specify in writing additional requirements regarding safety if the work involves:

- (i) Scaffolding;
- (ii) Work at heights above two (2) meters;
- (iii) Trenching or other excavation greater than one (1) meter in depth;
- (iv) Earth moving equipment;
- (v) Temporary wiring, use of portable electric tools, or other recognized electrical hazards. Temporary wiring and portable electric tools require the use of a ground fault circuit interrupter (GFCI) in the affected circuits; other electrical hazards may also require the use of a GFCI;
- (vi) Work in confined spaces (limited exits, potential for oxygen less than 19.5 percent or combustible atmosphere, potential for solid or liquid engulfment, or other hazards considered to be immediately dangerous to life or health such as water tanks, transformer vaults, sewers, cisterns, etc.);
- (vii) Hazardous materials – a material with a physical or health hazard including but not limited to, flammable, explosive, corrosive, toxic, reactive or unstable, or any operations which creates any kind of contamination inside an occupied building such as dust from demolition activities, paints, solvents, etc.; or
- (viii) Hazardous noise levels.

(b) Records. The contractor shall maintain an accurate record of exposure data on all accidents incident to work performed under this contract resulting in death, traumatic injury, occupational disease, or damage to or theft of property, materials, supplies, or equipment. The contractor shall report this data in the manner prescribed by the contracting officer.

(c) Subcontracts. The contractor shall be responsible for its subcontractors' compliance with this clause.

(d) Written program. Before commencing work, the contractor shall:

(1) Submit a written plan to the contracting officer for implementing this clause. The plan shall include specific management or technical procedures for effectively controlling hazards associated with the project; and,

(2) Meet with the contracting officer to discuss and develop a mutual understanding relative to administration of the overall safety program.

(e) Notification. The contracting officer shall notify the contractor of any non-compliance with these requirements and the corrective actions required. This notice, when delivered to the contractor or the contractor's representative on site, shall be deemed sufficient notice of the non-compliance and corrective action required. After receiving the notice, the contractor shall immediately take corrective action. If the contractor fails or refuses to promptly take corrective action, the contracting officer may issue an order suspending all or part of the work until satisfactory corrective action has been taken. The contractor shall not be entitled to any equitable adjustment of the contract

price or extension of the performance schedule on any suspension of work order issued under this clause.

#### **I.14 DOSAR 652.242-73 AUTHORIZATION AND PERFORMANCE (AUG 1999)**

(a) The contractor warrants the following:

- (1) [ ] That it has obtained authorization to operate and do business in the country or countries in which this contract will be performed;
- (2) That it has obtained all necessary licenses and permits required to perform this contract; and,
- (3) That it shall comply fully with all laws, decrees labor standards, and regulations of said country or countries during the performance of this contract.

(b) If the party actually performing the work is a subcontractor or joint venture partner, then such subcontractor or joint venture partner agrees to the requirements of paragraph (a) of this clause.

#### **I.15 DOSAR 652.243-70 NOTICES (AUG 1999)**

Any notice or request relating to this contract given by either party to the other shall be in writing. Said notice or request shall be mailed or delivered by hand to the other party at the address provided in the schedule of the contract. All modifications to the contract must be made in writing by the contracting officer.

#### **I.16 RECRUITMENT OF THIRD COUNTRY NATIONALS FOR PERFORMANCE ON DEPARTMENT OF STATE CONTRACTS (OCT 2012)**

1. On contracts exceeding \$150,000 where performance will require the recruitment of non-professional third country nationals, the offeror is required to submit a **Recruitment Plan** as part of the proposal. Contractors providing employer furnished housing are required to submit a **Housing Plan**.
2. Recruitment Plan
  - a. State the anticipated number of workers to be recruited, the skills they are expected to have, and the country or countries from which the contractor intends to recruit them.
  - b. Explain how the contractor intends to attract candidates and the recruitment strategy including the recruiter.
  - c. Provide a sample recruitment agreement in English, see Section J.3 **ADMINISTRATIVE SAMPLE DOCUMENTATION** - OIG Employee Interview Questionnaire.doc.
  - d. State in the offer that the recruited employee will not be charged recruitment or any similar fees. The contractor or employer pays the recruitment fees for the worker if recruited by the contractor or subcontractor to work specifically on Department of State jobs.
  - e. State in the offer that the contractor's recruitment practices comply with recruiting nation and host country labor laws.
  - f. State in the offer that the contractor has read and understands the requirements of FAR 52.222-50 Combating Trafficking in Persons.
  - g. Contractor and subcontractors shall only use bona fide licensed recruitment companies. Recruitment companies shall only use bona fide employees and not independent agents.
  - h. Contractor will advise the Contracting Officer of any changes to the Recruitment Plan

3. The offeror will submit a **Housing Plan** if the contractor intends to provide employer furnished housing for TCNs. The **Housing Plan** must describe the location and description of the proposed housing. Contractors must state in their offer that housing meets host country housing and safety standards and local codes or explain any variance. Contractor shall comply with any Temporary Labor Camp standards contained in this contract. In contracts without a Temporary Labor Camp standard, fifty square feet is the minimum amount of space per person without a Contracting Officer waiver. Contractor shall submit proposed changes to their Housing Plan to the Contracting Officer for approval.
4. Department of State contractor and subcontractors will treat employees with respect and dignity by taking the following actions:
  - a. Contractor may not destroy, conceal, confiscate, or otherwise deny access to an employee's identity documents or passports. Contractors and subcontractors are reminded of the prohibition contained in Title 18, United States Code, Section 1592, against knowingly destroying, concealing, removing, confiscating, or possessing any actual or purported passport or other immigration document to prevent or restrict the person's liberty to move or travel in order to maintain the services of that person, when the person is or has been a victim of a severe form of trafficking in persons. Contractor must be familiar with any local labor law restrictions on withholding employee identification documentation.
  - b. Contractor shall provide employees with signed copies of the/their employment contracts, in English and the employee's native language, that define the terms of employment, compensation including salary, overtime rates, allowances, salary increases, job description, description of any employer provided housing, benefits including leave accrual, and information on whether hazardous working conditions are anticipated. Contracts must be provided prior to employee departure from their countries of origin. Contractors will provide workers with written information on relevant host country labor laws. Fraudulent recruiting practices, including deliberately misleading information, may be considered a material breach of this contract.
  - c. Contractor shall provide all employees with a "Know Your Rights" brochure and document that employees have been briefed on the contents of the brochure. The English language version is available at <http://www.state.gov/g/tip> or from the Contracting Officer.
  - d. Contractor shall brief employees on the requirements of the FAR 52.222-50 Combating Trafficking in Persons including the requirements against commercial sex even in countries where it is legal and shall provide a copy of the briefing to the Contracting Officer Representative (COR).
  - e. Contractor shall display posters in worker housing advising employees in English and the dominant language of the Third Country Nationals being housed of the requirement to report violations of Trafficking in Persons to the company and the company's obligation to report to the Contracting Officer. The poster shall also indicate that reports can also be submitted to the Office of the Inspector General (OIG) Hotline at 202-647-3320 or 1-800-409-9926 or via email at [OIGHOTLINE@STATE.GOV](mailto:OIGHOTLINE@STATE.GOV).
  - f. Contractor and subcontractors shall comply with sending and receiving nation laws regarding transit, entry, exit, visas, and work permits. Contractors are responsible for repatriation of workers imported for contract performance except an employee legally permitted to remain in the country of work and who chooses to do so; or an employee who is a victim of trafficking

trafficking-related enforcement action.

g. Contractor will monitor subcontractor compliance at all tiers. This includes verification that subcontractors are aware of, and understand, the requirements of FAR 52.222-50 Combating Trafficking in Persons and this clause. Contractors specifically agree to allow U.S.

Government personnel access to contractor and subcontractor personnel, records, and housing for audit of compliance with the requirements of this clause.

i. The contractor agrees to include this clause in all subcontracts over \$150,000 involving recruitment of third country nationals for subcontractor performance.

5. On contracts or subcontracts for other than commercially available off the shelf items, Offerors will certify with the submission of their proposal and annually thereafter that the contractor and subcontractors have a compliance plan in place appropriate to the size and nature of the program to prevent trafficking activities and to comply with the provisions of this clause. The certification will confirm that, to the best of its knowledge and belief, neither the prime nor subcontractor have engaged in any trafficking related activities described in section 106(g) of the Trafficking Victims Protection Act (TVPA) or the prohibitions of this clause.

## **SECTION J - LIST OF ATTACHMENTS**

### **J.1. PROJECT DRAWING (cd)**

ARCHITECTURAL DWGS  
SYSTEMS DWG  
STRUCTURAL DWGS

### **J.2 STATEMENT OF WORK –SPECIFICATIONS**

### **J.3 COST PROPOSAL BREAKDOWN**

## **SECTION K - REPRESENTATIONS, CERTIFICATIONS AND OTHER STATEMENTS OF OFFERORS OR RESPONDENTS**

### **K.1 FAR 52.204-8 ANNUAL REPRESENTATIONS AND CERTIFICATIONS (MAR 2012)**

- (a) (1) The North American Industry classification System (NAICS) code for this acquisition is **236220**.

(2) The small business size standard is \$33.5 (Size Standard in millions of dollars).

(3) The small business size standard for a concern which submits an offer in its own name, other than on a construction or service contract, but which proposes to furnish a product which it did not itself manufacture, is 500 employees.

(b)

(1) If the clause at 52.204-7, Central Contractor Registration, is included in this solicitation

paragraph (d) of this provision applies.

(2) If the clause at 52.204-7 is not included in this solicitation, and the offeror is currently registered in CCR, and has completed the ORCA electronically, the offeror may choose to use paragraph (d) of this provision instead of completing the corresponding individual representations and certification in the solicitation. The offeror shall indicate which option applies by checking one of the following boxes:

☐ (i) Paragraph (d) applies.

☐ (ii) Paragraph (d) does not apply and the offeror has completed the individual representations and certifications in the solicitation.

(c)

(1) The following representations or certifications in ORCA are applicable to this solicitation as indicated:

(i) 52.203-2, Certificate of Independent Price Determination. This provision applies to solicitations when a firm-fixed-price contract or fixed-price contract with economic price adjustment is contemplated, unless—

(A) The acquisition is to be made under the simplified acquisition procedures in Part 13;

(B) The solicitation is a request for technical proposals under two-step sealed bidding procedures; or

(C) The solicitation is for utility services for which rates are set by law or regulation.

(ii) 52.203-11, Certification and Disclosure Regarding Payments to Influence Certain Federal Transactions. This provision applies to solicitations expected to exceed \$150,000.

(iii) 52.204-3, Taxpayer Identification. This provision applies to solicitations that do not include the clause at 52.204-7, Central Contractor Registration.

(iv) 52.204-5, Women-Owned Business (Other Than Small Business). This provision applies to solicitations that—

(A) Are not set aside for small business concerns;

(B) Exceed the simplified acquisition threshold; and

(C) Are for contracts that will be performed in the United States or its outlying areas.

(v) 52.209-2, Prohibition on Contracting with Inverted Domestic Corporations—

years 2008, 2009, or 2010.

(vi) 52.209-5; Certification Regarding Responsibility Matters. This provision applies to solicitations where the contract value is expected to exceed the simplified acquisition threshold.

(vii) 52.214-14, Place of Performance--Sealed Bidding. This provision applies to invitations for bids except those in which the place of performance is specified by the Government.

(viii) 52.215-6, Place of Performance. This provision applies to solicitations unless the place of performance is specified by the Government.

(ix) 52.219-1, Small Business Program Representations (Basic & Alternate I). This provision applies to solicitations when the contract will be performed in the United States or its outlying areas.

(A) The basic provision applies when the solicitations are issued by other than DoD, NASA, and the Coast Guard.

(B) The provision with its Alternate I applies to solicitations issued by DoD, NASA, or the Coast Guard.

(x) 52.219-2, Equal Low Bids. This provision applies to solicitations when contracting by sealed bidding and the contract will be performed in the United States or its outlying areas.

(xi) 52.222-22, Previous Contracts and Compliance Reports. This provision applies to solicitations that include the clause at 52.222-26, Equal Opportunity.

(xii) 52.222-25, Affirmative Action Compliance. This provision applies to solicitations, other than those for construction, when the solicitation includes the clause at 52.222-26, Equal Opportunity.

(xiii) 52.222-38, Compliance with Veterans' Employment Reporting Requirements. This provision applies to solicitations when it is anticipated the contract award will exceed the simplified acquisition threshold and the contract is not for acquisition of commercial items.

(xiv) 52.223-1, Biobased Product Certification. This provision applies to solicitations that require the delivery or specify the use of USDA-designated items; or include the clause at 52.223-2, Affirmative Procurement of Biobased Products Under Service and Construction Contracts.

(xv) 52.223-4, Recovered Material Certification. This provision applies to solicitations that are for, or specify the use of, EPA- designated items.

(xvi) 52.225-2, Buy American Act Certificate. This provision applies to solicitations containing the clause at 52.225-1.

(xvii) 52.225-4, Buy American Act--Free Trade Agreements--Israeli Trade Act Certificate. (Basic, Alternates I, II, and III.) This provision applies to solicitations containing the clause at 52.225- 3.

(A) If the acquisition value is less than \$25,000, the basic provision applies.

(B) If the acquisition value is \$25,000 or more but is less than \$50,000, the provision with its Alternate I applies.

(C) If the acquisition value is \$50,000 or more but is less than \$77,494, the

(D) If the acquisition value is \$77,494 or more but is less than \$100,000, the provision with its Alternate III applies.

(xviii) 52.225-6, Trade Agreements Certificate. This provision applies to solicitations containing the clause at 52.225-5.

(xix) 52.225-20, Prohibition on Conducting Restricted Business Operations in Sudan--Certification. This provision applies to all solicitations.

(xx) 52.225-25, Prohibition on Contracting with Entities Engaging in Sanctioned Activities Relating to Iran—Representation and Certification. This provision applies to all solicitations.

(xxi) 52.226-2, Historically Black College or University and Minority Institution Representation. This provision applies to—

(A) Solicitations for research, studies, supplies, or services of the type normally acquired from higher educational institutions; and

(B) For DoD, NASA, and Coast Guard acquisitions, solicitations that contain the clause at 52.219-23, Notice of Price Evaluation Adjustment for Small Disadvantaged Business Concerns.

(2) The following certifications are applicable as indicated by the Contracting Officer:

[Contracting Officer check as appropriate.]

\_\_\_ (i) 52.219-22, Small Disadvantaged Business Status.

\_\_\_ (A) Basic.

\_\_\_ (B) Alternate I.

\_\_\_ (ii) 52.222-18, Certification Regarding Knowledge of Child Labor for Listed End Products.

\_\_\_ (iii) 52.222-48, Exemption from Application of the Service Contract Act to Contracts for Maintenance, Calibration, or Repair of Certain Equipment Certification.

\_\_\_ (iv) 52.222-52 Exemption from Application of the Service Contract Act to Contracts for Certain Services--Certification.

\_\_\_ (v) 52.223-9, with its Alternate I, Estimate of Percentage of Recovered Material Content for EPA-Designated Products (Alternate I only).

\_\_\_ (vi) 52.227-6, Royalty Information.

\_\_\_ (A) Basic.

\_\_\_ (B) Alternate I.

\_\_\_ (vii) 52.227-15, Representation of Limited Rights Data and Restricted Computer Software.

(d) The offeror has completed the annual representations and certifications electronically via the Online Representations and Certifications Application (ORCA) website accessed through

<https://www.acquisition.gov> . After reviewing the ORCA database information, the offeror verifies by submission of the offer that the representations and certifications currently posted electronically that apply to this solicitation as indicated in paragraph (c) of this provision have been entered or updated within the last 12 months, are current, accurate, complete, and applicable to this solicitation (including the business size standard applicable to the NAICS code referenced for this solicitation), as of the date of this offer and are incorporated in this offer by reference (see FAR 4.1201); except for the changes identified below *[offeror to insert changes, identifying change by clause number, title, date]*. These amended representation(s) and/or certification(s) are also incorporated in this offer and are current, accurate, and complete as of the date of this offer.

FAR Clause	Title	Date	Change

Any changes provided by the offeror are applicable to this solicitation only, and do not result in an update to the representations and certifications posted on ORCA.

## **K.2 FAR 52.209-7 INFORMATION REGARDING RESPONSIBILITY MATTERS (FEB 2012)**

(a) Definitions. As used in this provision — “Administrative proceeding” means a non-judicial process that is adjudicatory in nature in order to make a determination of fault or liability (e.g., Securities and Exchange Commission Administrative Proceedings, Civilian Board of Contract Appeals Proceedings, and Armed Services Board of Contract Appeals Proceedings). This includes administrative proceedings at the Federal and State level but only in connection with performance of a Federal contract or grant. It does not include agency actions such as contract audits, site visits, corrective plans, or inspection of deliverables.

“Federal contracts and grants with total value greater than \$10,000,000” means— (1) The total value of all current, active contracts and grants, including all priced options; and (2) The total value of all current, active orders including all priced options under indefinite-delivery, indefinite-quantity, 8(a), or requirements contracts (including task and delivery and multiple-award Schedules). “Principal” means an officer, director, owner, partner, or a person having primary management or supervisory responsibilities within a business entity (e.g., general manager; plant manager; head of a division or business segment; and similar positions).

(b) The offeror [ ] has [ ] does not have current active Federal contracts and grants with total value greater than \$10,000,000.

(c) If the offeror checked “has” in paragraph (b) of this provision, the offeror represents, by submission of this offer, that the information it has entered in the Federal Awardee Performance and Integrity Information System (FAPIIS) is current, accurate, and complete as of the date of submission of this offer with regard to the following information:

(1) Whether the offeror, and/or any of its principals, has or has not, within the last five years, in connection with the award to or performance by the offeror of a Federal contract or grant, been the subject of a proceeding, at the Federal or State level that resulted in any of the following dispositions:

(ii) In a civil proceeding, a finding of fault and liability that results in the payment of a monetary fine, penalty, reimbursement, restitution, or damages of \$5,000 or more.

(iii) In an administrative proceeding, a finding of fault and liability that results in—

(A) The payment of a monetary fine or penalty of \$5,000 or more; or

(B) The payment of a reimbursement, restitution, or damages in excess of \$100,000.

(iv) In a criminal, civil, or administrative proceeding, a disposition of the matter by consent or compromise with an acknowledgment of fault by the Contractor if the proceeding could have led to any of the outcomes specified in paragraphs (c)(1)(i), (c)(1)(ii), or (c)(1)(iii) of this provision.

(2) If the offeror has been involved in the last five years in any of the occurrences listed in (c)(1) of this provision, whether the offeror has provided the requested information with regard to each occurrence.

(d) The offeror shall post the information in paragraphs (c)(1)(i) through (c)(1)(iv) of this provision in FAPIIS as required through maintaining an active registration in the Central Contractor Registration database via <https://www.acquisition.gov> (see 52.204-7).

### **K.3 FAR 52.236-28 PREPARATION OF PROPOSALS — CONSTRUCTION (OCT 1997)**

(a) Proposals must be

(1) Submitted on the forms furnished by the Government or on copies of those forms, and

(2) Manually signed. The person signing a proposal must initial each erasure or change appearing on any proposal form.

(b) The proposal form may require offerors to submit proposed prices for one or more items on various bases, including --

(1) Lump sum price;

(2) Alternate prices;

(3) Units of construction; or

(4) Any combination of paragraphs (b)(1) through (b)(3) of this provision.

(c) If the solicitation requires submission of a proposal on all items, failure to do so may result in the proposal being rejected without further consideration. If a proposal on all items is not required, offerors should insert the words "no proposal" in the space provided for any item on which no price is submitted.

(d) Alternate proposals will not be considered unless this solicitation authorizes their submission.

### **K.4 AUTHORIZED CONTRACT ADMINISTRATOR**

If the offeror does not fill-in the blanks below, the official who signed the offer will be deemed to be the offeror's representative for contract administration, which includes all matters pertaining to payments.

---

<b>Address:</b>	
<b>Telephone Number:</b>	

**K.5 652.228-70 DEFENSE BASE ACT - COVERED CONTRACTOR  
EMPLOYEES (JUN 2006)(DEVIATION)**

(a) Bidders/offerors shall indicate below whether or not any of the following categories of employees will be employed on the resultant contract, and, if so, the number of such employees:

Category	Yes/No	Number
(1) United States citizens or residents		
(2) Individuals hired in the United States, regardless of citizenship		
(3) Local nationals or third country nationals where contract performance takes place in a country where there are <i>no</i> local worker's compensation laws		Local Nationals:____ Third Country Nationals:____
(4) Local nationals or third country nationals where performance takes place in a country where there <i>are</i> local worker's compensation laws		Local Nationals:____ Third Country Nationals:____

(b) The Contracting Officer has determined that for performance in the country of the: Thailand -

☒ Worker's compensation laws exist that will cover local nationals and third country nationals.

☐ Worker's compensation laws do not exist that will cover local nationals and third country nationals.

(c) If the bidder/offeror has indicated "yes" in block (a)(4) of this provision, the bidder/offeror shall not purchase Defense Base Act insurance for those employees. However, the bidder/offeror shall assume liability toward the employees and their beneficiaries for war-hazard injury, death, capture, or detention, in accordance with the clause at FAR 52.228-4.

**K.6 CONTRACTOR RECRUITMENT OF THIRD COUNTRY NATIONALS (TCNs)**

If offeror has entered a number for "Third Country Nationals" under category 4 in Section K.5(a), the Contractor certifies that:

(i) ☐ The listed Third Country Nationals (TCNs) are non-professionals and the Contractor will provide accommodation.

(ii) ☐ The listed Third Country Nationals (TCNs) are non-professionals and the Contractor will **not** provide accommodation.

(iii) ☐ Some of the listed Third Country Nationals (TCNs) are professionals; there are \_\_\_\_\_  
TCN professionals in total

(iv) [ ] All of the listed Third Country Nationals (TCNs) are professionals.

#### K.7 CERTIFICATION (05/95)

I hereby certify that the responses to the above representations, certifications, and other statements are accurate and complete.

Signature: \_\_\_\_\_

Typed Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

#### **SECTION L - INSTRUCTIONS, CONDITIONS, AND NOTICES TO OFFERORS**

##### L.1 52.252-1 SOLICITATION PROVISIONS INCORPORATED BY REFERENCE (FEB 1998)

This contract incorporates the following provisions by reference, with the same force and effect as if they were given in full text. Upon request, the Contracting Officer will make their full text available. The offeror is cautioned that the listed provisions may include blocks that must be completed by the offeror and submitted with its quotation or offer. In lieu of submitting the full text of those provisions, the offeror may identify the provision by paragraph identifier and provide the appropriate information with its quotation or offer. Also, the full text of a solicitation provision may be accessed electronically at: <http://acquisition.gov/far/index.html/> or <http://farsite.hill.af.mil/vffara.htm>. These addresses are subject to change.

If the Federal Acquisition Regulation (FAR) is not available at the locations indicated above, use of the Department of State Acquisition website at <http://www.statebuy.state.gov/> or an Internet "search engine" (for example, Google, Yahoo or Excite) is suggested to obtain the latest location of the most current FAR.

The following Federal Acquisition Regulation provision(s) is/are incorporated by reference (48 CFR CH. 1):

<u>PROVISIONS</u>	<u>TITLE AND DATE</u>
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52.204-7	SYSTEM FOR AWARD MANAGEMENT (JUL 2013)
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52.209-7	INFORMATION REGARDING RESPONSIBILITY MATTERS (JUL 2013)
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52.214-34	SUBMISSION OF OFFERS IN THE ENGLISH LANGUAGE (APR 1991)
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52.215-1	INSTRUCTIONS TO OFFERORS—COMPETITIVE ACQUISITION (JAN 2004)
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52.236-28	PREPARATION OF PROPOSALS – CONSTRUCTION OCT 1997
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##### L.2 SOLICITATION PROVISIONS IN FULL TEXT

The Government contemplates award of a **firm fixed price** contract resulting from this solicitation.

52.233-2 SERVICE OF PROTEST (SEPT 2006)

(a) Protests, as defined in section 33.101 of the Federal Acquisition Regulation, that are filed directly with an agency, and copies of any protests that are filed with the General Accounting Office (GAO), shall be served on the Contracting Officer (addressed as follows) by obtaining written and dated acknowledgment of receipt from

(b) The copy of any protest shall be received in the office designated above within one day of filing a protest with the GAO.

L.3 QUALIFICATIONS OF OFFERORS

Offerors must be technically qualified and financially responsible to perform the work described in this solicitation. At a minimum, each Offeror must meet the following requirements:

- (1) Be able to understand written and spoken English;
- (2) Have an established business with a permanent address and telephone listing;

(3) Be able to demonstrate prior construction experience with suitable references for company and Project manager;

(4) List of clients over the past 3 years, demonstrating prior experience with relevant past performance information and references (provide dates of contracts, places of performance, value of contracts, contact names, telephone and fax numbers and email addresses). If the offeror has not performed comparable services in Costa Rica then the offeror shall provide its international experience. Offerors are advised that the past performance information requested above may be discussed with the client's contact person. In addition, the client's contact person may be asked to comment on the offeror's:

- Quality of services provided under the contract;
- Compliance with contract terms and conditions;
- Effectiveness of management;
- Willingness to cooperate with and assist the customer in routine matters, and when confronted by unexpected difficulties; and
- Business integrity / business conduct. The Government will use past performance information primarily to assess an offeror's capability to meet the solicitation performance requirements, including the relevance and successful performance of the offeror's work experience. The Government may also use this data to evaluate the credibility of the offeror's proposal. In addition, the Contracting Officer may use past performance information in making a determination of responsibility.

(5) Evidence that the offeror/quoter can provide the necessary personnel, equipment, and financial resources needed to perform the work;

(6) The offeror shall address its plan to obtain all licenses and permits required by local law (see DOSAR 652.242-73 in Section 2). If offeror already possesses the locally required licenses and permits, a copy shall be provided.

(7) The offeror's strategic plan for construction services to include but not limited to:

(a) A work plan taking into account all work elements in Section 1, Performance Work Statement.

(b) Identify types and quantities of equipment, supplies and materials required for performance of services under this contract. Identify if the offeror already possesses the listed items and their condition for suitability and if not already possessed or inadequate for use how and when the items will be obtained;

(c) Plan of ensuring quality of services including but not limited to contract administration and oversight; and

(d) (1) if insurance is required by the solicitation, a copy of the Certificate of Insurance(s), **or** (2) a statement that the Contractor will get the required insurance, and the name of the insurance provider to be used.

(8) Have the ability to obtain a performance and guarantee bond and a payment bond, or to post adequate performance security, such as irrevocable letters of credit or guarantees issued by a reputable financial institution;

(9) Have no adverse criminal record; and

(10) Have no political or business affiliation which could be considered contrary to the interests of the United States.

#### L.4 REVIEW OF DOCUMENTS

Each Offeror is responsible for:

(1) Obtaining a complete set of contract drawings and specifications;

(2) Thoroughly reviewing such documents and understanding their requirements;

(3) Visiting the project site and becoming familiar with all working conditions, local laws and regulations; and

(4) Determining that all materials, equipment and labor required for the work are available.

Any ambiguity in the solicitation, including specifications and contract drawings, must be reported immediately to the Contracting Officer. Any prospective Offeror who requires a clarification, explanation or interpretation of the contract requirements must make a request to the Contracting Officer not less than ten working days before the closing date of the solicitation. Offerors may rely **ONLY** upon written interpretations by the Contracting Officer.

#### L.5 SUBMISSION OF OFFERS

##### L.5.1 SUMMARY OF INSTRUCTIONS

Volume	Title	No. of Copies*
I	Executed Standard Form 1442, <i>Solicitation, Offer and Award (Construction, Alteration, or Repair)</i> , and completed Section K	3
II	Price Proposal and Completed Section B. The price proposal shall include a completed Section J, Attachment 4, "Breakdown of Proposal Price by Specifications". Performance schedule in the form of a "bar chart" and Business Management/Technical Proposal.	3

Submit the complete offer to the address indicated at Block 7 of Standard Form (SF) 1442, if mailed, or if hand-delivered, the address set forth below (if this is left blank, the address is the same as that in Block 7 of SF-1442):

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The offeror shall identify and explain/justify any deviations, exceptions, or conditional assumptions taken with respect to any of the instructions or requirements of this solicitation in the

#### L.5.2 DETAILED INSTRUCTIONS

L.5.2.1 Volume I: Standard Form (SF) 1442 and Section K. Complete blocks 14 through 20C of the SF-1442 and all of Section K.

L.5.2.2 Volume II: Price proposal and Section B. The price proposal shall consist of completion of Section B and Section J, Attachment 4, "BREAKDOWN OF PROPOSAL PRICE BY DIVISIONS OF SPECIFICATIONS. Complete all applicable portions of this form in each relevant category (such as., labor, materials, etc.). Performance schedule and Business Management/Technical Proposal.

PROPOSED WORK INFORMATION - Provide the following:

- (1) A list of the names, addresses and telephone numbers of the owners, partners, and principal officers of the Offeror;
- (2) The name and address of the Offeror's field superintendent for this project; and

(3) A list of the names, addresses and telephone numbers of subcontractors and

principal materials suppliers to be used on the project, indicating what portions of the work will be performed by them.

EXPERIENCE AND PAST PERFORMANCE - List all contracts and subcontracts your company has held over the past three years for the same or similar work. Provide the following information for each contract and subcontract:

- (1) Customer's name, address, and telephone numbers of customer's lead contract and technical personnel;
- (2) Contract number and type;
- (3) Date of the contract award place(s) of performance, and completion dates;
- (4) Contract dollar value;
- (5) Brief description of the work, including responsibilities;
- (6) Comparability to the work under this solicitation;
- (7) Brief discussion of any major technical problems and their resolution;

L.6 52.236-27 SITE VISIT (FEB 1995)

(a) The clauses at 52.236-2, Differing Site Conditions, and 52.236-3, Site Investigations and Conditions Affecting the Work, will be included in any contract awarded as a result of this solicitation. Accordingly, offerors or quoters are urged and expected to inspect the site where the work will be performed.

**(b) A pre-proposal conference will be held May 28 (US Embassy) and a site visit has been scheduled May 29, 2014**

(c) Participants will meet at

L.7 652.206-70 COMPETITION ADVOCATE/OMBUDSMAN (AUG 1999) (DEVIATION)

(a) The Department of State's Competition Advocate is responsible for assisting industry in removing restrictive requirements from Department of State solicitations and removing barriers to full and open competition and use of commercial items. If such a solicitation is considered competitively restrictive or does not appear properly conducive to competition and commercial practices, potential offerors are encouraged to first contact the contracting office for the respective solicitation.

If concerns remain unresolved, contact the Department of State Competition Advocate on (703) 516-1696, by fax at (703) 875-6155, or by writing to:

Competition Advocate

U.S. Department of State; A/OPE; SA-15, Room 1060

Washington, DC 20522-1510.

(b) The Department of State's Acquisition Ombudsman has been appointed to hear concerns from potential offerors and contractors during the pre-award and post-award phases of this acquisition. The role of the ombudsman is not to diminish the authority of the Contracting Officer, the Technical Evaluation Panel or Source Evaluation Board, or the selection official. The purpose of the ombudsman is to facilitate the communication of concerns, issues, disagreements, and recommendations of interested parties to the appropriate Government personnel, and work to resolve them. When requested, and appropriate, the ombudsman will maintain strict confidentiality as to the source of the concern. The ombudsman does not participate in the evaluation of proposals, the source selection process, or the adjudication of formal contract disputes.

Interested parties are invited to contact the contracting activity ombudsman. For a U.S. Embassy or overseas post, refer to the numbers below for the Department Acquisition Ombudsman. Concerns, issues, disagreements, and recommendations which cannot be resolved at a contracting activity level may be referred to the Department of State Acquisition Ombudsman at (703) 516-1696, by fax at (703) 875-6155, or by writing to: Acquisition Ombudsman--U.S. Department of State

A/OPE SA-15, Room 1060

Washington, DC 20522-1510.

#### L.8 MAGNITUDE OF CONSTRUCTION PROJECT

It is anticipated that the range in price of this contract will be: \$500,000-\$1,000,000.

#### L.9 FINANCIAL STATEMENT

If asked by the Contracting Officer, the offeror shall provide a current statement of its financial condition, certified by a third party, that includes:

Income (profit-loss) Statement that shows profitability for the past 3 years.

Balance Sheet that shows the assets owned and the claims against those assets, or what a firm owns and what it owes; and

Cash Flow Statement that shows the firm's sources and uses of cash during the most recent accounting period. This will help the Government assess a firm's ability to pay its obligations.

The Government will use this information to determine the offeror's financial responsibility and ability to perform under the contract. Failure of an offeror to comply with a request for this information may cause the Government to determine the offeror to be nonresponsible.

## SECTION M - EVALUATION FACTORS FOR AWARD

### M.1 EVALUATION OF PROPOSALS

M.1.1 GENERAL. To be acceptable and eligible for evaluation, proposals must be prepared in accordance with Section L - INSTRUCTIONS, CONDITIONS AND NOTICES TO OFFERORS, and must meet all the requirements set forth in the other sections of this solicitation.

#### M.1.2 BASIS FOR AWARD

The Government intends to award a contract resulting from this solicitation to the lowest priced, technically acceptable offeror who is a responsible contractor. The evaluation procedures are set forth below:

(a) INITIAL EVALUATION. The Government will evaluate all proposals received to ensure that each proposal is complete in terms of submission of each required volume, as specified in Section L. The Government may reject proposals which are missing a significant amount of the required information.

(b) TECHNICAL EVALUATION. After the Initial Evaluation, the Government will review those proposals remaining for consideration to determine technical acceptability. The Government will consider the following evaluation criteria in determining the acceptability of the technical proposal. To be considered technically acceptable, the technical proposal must provide the information requested in Section L and conform to the requirements of the solicitation.

The Proposed Work Information described in L.5.2.3(b).

- The qualifications and experience of the offeror's proposed project superintendent and subcontractors.
- Experience and Past Performance (L.5.2.3.(b)). The Government may contact references to verify the quality of the past performance.
- The performance schedule (bar chart) (Section L.5.2.3.).
- Responses to all other technical requirements contained in the solicitation.

(c) The Government will make a responsibility determination by analyzing whether the apparent successful offeror complies with the requirements of FAR 9.1, including:

- adequate financial resources or the ability to obtain them;
- ability to comply with the required performance period, taking into consideration all existing commercial and governmental business commitments;
- satisfactory record of integrity and business ethics;
- necessary organization, experience, and skills or the ability to obtain them;
- necessary equipment and facilities or the ability to obtain them; and

- be otherwise qualified and eligible to receive an award under applicable laws and regulations.

The Government reserves the right to reject proposals that are unreasonably low or high in price. Unsuccessful offerors will be notified in accordance with FAR 15.5.

#### M.1.3 AWARD SELECTION

The Government will review the prices of all technically acceptable firms and award the contract to the lowest priced, technically acceptable, responsible offeror.

#### M.2 AWARD WITHOUT DISCUSSIONS

Under FAR provision 52.215-1 (included in Section L of this RFP), award of this contract may be made based on initial proposals and without holding discussions, following FAR 15.306(a)(3).

#### M.3 52.225-17 EVALUATION OF FOREIGN CURRENCY OFFERS (FEB 2000):

If the Government receives offers in more than one currency, the Government will evaluate offers by converting the foreign currency to United States currency using the exchange rate used by the Embassy in effect as follows:

- (a) For acquisitions conducted using sealed bidding procedures, on the date of bid opening.
- (b) For acquisitions conducted using negotiation procedures—
  - (1) On the date specified for receipt of offers, if award is based on initial offers; otherwise
  - (2) On the date specified for receipt of proposal revisions.

#### M.4 SEPARATE CHARGES

Separate charges, in any form, are not solicited. For example, any charges for failure to exercise an option are unacceptable.